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NEW DELHI, SATURDAY, APRIL 21, 1984/VAISAKHA 1, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-section (II)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किये गये सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 3 अप्रैल, 1984,

का० आ० 1260.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेवखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा उपनिदेशक, नागर अनुसंधान केन्द्र, मंत्रिमंडल सचिवालय, डूम डूमा को सम्पदी अधिकारी के रूप में नियुक्त करती है और मंत्रिमंडल सचिवालय की 25 मार्च, 1981 की अधिसूचना सं० 8-55/80-ई० ए०-ii में निम्नलिखित संशोधन करती है, अर्थात् :-

उपर्युक्त अधिसूचना के नीचे दी गई सारणी में क्रम सं० 2, कालम 2 के सामने प्रविष्टि "संयुक्त उप निदेशक (प्रशा०) मंत्रिमंडल सचिवालय, डूम डूमा" के स्थान पर "उप निदेशक नागर अनुसंधान केन्द्र मंत्रिमंडल सचिवालय, डूम डूमा" रखी जाए।

[सं० 8-55/80-ई० ए०-ii / ई० ए० I]

जी० पी० चड्ढा, निदेशक (एस० आर०)

CABINET SECRETARIAT

New Delhi, the 3rd April, 1984

S.O. 1260.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints Deputy Director, Aviation Research Centre, Cabinet Secretariat, Doom Dooma, as the Estate Officer and makes the following amendment in the notification of the Cabinet Secretariat No. 8-55/80-EA. II, dated the 25th March, 1981, namely :—

In the Table below the said notification, against serial No. 2, in column 2 for the entry "Joint Deputy Director (Admn.), Cabinet Secretariat, Doom Dooma", the entry "Deputy Director, Aviation Research Centre, Cabinet Secretariat, Doom Dooma" shall be substituted.

[No. 8-55/80-EA. II/EA. II]
G. P. CHADHA, Director (SR)

विधि, न्याय और कम्पनी कार्य मंत्रालय

(विधि कार्य विभाग)

नई दिल्ली, 29 मार्च, 1984

सूचना

का० आ० 1261.—नोटरीज नियम, 1956 नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री संकर प्रसाद घोष एडवोकेट, 367, डबल स्टोरी न्यू राजिन्द्र नगर नई दिल्ली ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया जा रहा है कि उसे सम्पूर्ण भारत में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति को नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं० 5(22)/84-न्या०]

एस० गुप्त, सक्षम प्राधिकारी

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

(Department of Legal Affairs)

New Delhi, the 29th March, 1984

NOTICE

S.O. 1261.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri Sankar Prasad Ghosh, Advocate, 367-D.S., New Rajinder Nagar, New Delhi-110060 for appointment as a Notary to practise in throughout India.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(22)/84-Jud.]

S. GOOPTU, Competent Authority

गृह मंत्रालय

(कार्मिक और प्रशासनिक सुधार विभाग)

आदेश

नई दिल्ली, 4 अप्रैल, 1984

का० आ० 1262.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पंजाब सरकार की सहमति से, भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 364 के अधीन दण्डनीय अपराधों के और उक्त अपराधों के संबंध में या उससे संबंधित प्रयत्नों, दुष्प्रेरणाओं और षड्यंत्रों के तथा पंजाब राज्य के जिला पट्टियाला, पुलिस थाना कोतवाली, नाभा में भारतीय दंड संहिता 1860 (1860 का 45) की धारा 367 के अधीन रजिस्ट्रीकृत मामले की प्रथम इतिहास रिपोर्ट संख्या 173, तारीख 27 अगस्त, 1982 के संबंध में वैसे ही तथ्यों से उत्पन्न होने वाले वैसे ही संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तारण सम्पूर्ण पंजाब राज्य पर करती है।

[संख्या 228/6/84-ए० बी० डी०-II]

MINISTRY OF HOME AFFAIRS

(Department of Personnel and Administrative Reforms)

ORDER

New Delhi, the 4th April, 1984

S.O. 1262.—In exercise of the powers conferred under sub-section (1) of section 5 read with section 6 of Delhi Special Police Establishment Act, 1946. (25 of 1946), the

Central Government, with the consent of Government of Punjab extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Punjab for the investigation of offence Punishable under section 364 of the Indian Penal Code 1860 (45 of 1860) and attempts abetments and conspiracies in relation to or in connection with the said offences and any other offence committed in the course of same transaction arising out of the same facts with regard to case FIR No. 173 dated the 27th August, 1982 under section 364 of the Indian Penal Code, 1860 (45 of 1860) of police station Kotwali, Nabha, District Patiala in the State of Punjab.

[No. 228/6/84-AVD. II]

नई दिल्ली, 7 अप्रैल, 1984

का० आ० 1263.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय अन्वेषण ब्यूरो के लोक अभियोजक, श्री जी० एस० ताहीलियानी को, भारत के किसी ऐसे राज्य या संघ राज्य क्षेत्र में जिसको पूर्वोक्त धारा का उपबंध लागू होता है, विधि द्वारा स्थापित, विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापन द्वारा संस्थित मामलों के और पुनरीक्षण या अपील न्यायालयों में उन मामलों से उत्पन्न होने वाली अपीलों पुनरीक्षणों या अन्य विषयों के संचालन के लिए विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/3/80-ए० बी० डी०-II]

New Delhi, the 7th April, 1984

S.O. 1263.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri G. S. Tahiliani, Public Prosecutor of the Central Bureau of Investigation, as Special Public Prosecutor for the conduct to cases instituted by Delhi Special Police Establishment in trial courts and appeals, revisions or other matters arising out of these cases in revisional or appellate Courts, established by law in any State or Union Territory of India to which the provision of the aforesaid section apply.

[No. 225/3/84—AVD. II]

आदेश

नई दिल्ली, 12 अप्रैल, 1984

का० आ० 1264.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा 8 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्नाटक सरकार की सहमति से, भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 302 के अधीन दण्डनीय अपराध के और उक्त अपराधों के संबंध में या उनसे संबंधित प्रयत्नों, दुष्प्रेरणों और षड्यंत्रों के तथा कर्नाटक राज्य में पुलिस थाना, स्टेशन बाजार, गुलबर्गा, के अपराध सं० 37/84 वाले मामले, जो

तारीख 14 फरवरी, 1984 को गुलबर्गी में कन्नड़ दैनिक "क्रांति" के सम्पादक सिद्धरमेश की अभिकथित हत्या से संबंधित है, के सम्बन्ध में उन्हीं तथ्यों से उत्पन्न ऐसे ही संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तारण सम्पूर्ण कर्नाटक राज्य पर करती है।

[संख्यांक 228/12/84-ए बी डी- II]

एच० के० वर्मा, अवर सचिव

New Delhi, the 12th April, 1984

ORDER

S.O. 1264.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government, with the consent of Government of Karnataka extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Karnataka for the investigation of offence punishable under section 302 of the Indian Penal Code, 1860 (45 of 1860) and attempts, abetments and conspiracies in relation to or in connection with the said offences and any other offence committed in the course of same transaction arising out of the same facts with regard to case in crime No. 37/84 of Police Station, Station Bazar, Gulbarga in the State of Karnataka relating to alleged murder of Siddaramesh, Editor of 'Kranti' Kannada daily, on 14th February, 1984 at Gulbarga.

[No. 228/12/84-AVD.II]

H. K. VERMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 6 अप्रैल, 1984

आदेश

स्टाम्प

का० आ० 1265—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा मसर्स टाटा इंजीनियरिंग एण्ड लोको मोटिव कं० लि० को केवल इकतालीस लाख पच्चीस हजार रुपये के उस समेकित स्टाम्प शुल्क की अदायगी करने की अनुमति देती है जो उक्त कंपनी द्वारा जारी किए जाने वाले पचपन करोड़ रुपये के अंकित मूल्य के 15% आरक्षित अपरिवर्तनीय ऋणपत्रों के रूप में बंध-पत्रों पर प्रभाय है।

[संख्या 21/84-स्टाम्प-फा० सं० 33/21/84-वि०क०]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 6th April, 1984

ORDER

STAMPS

S.O. 1265.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby per-

mits M/s. Tata Engineering and Locomotive Company Ltd., to pay consolidated stamp duty of rupees forty one Lakhs and twenty five thousand only chargeable on account of the stamp duty on bonds in the form of 15 per cent Secured Non-Convertible debentures of the face value of rupees fifty five crores only to be issued by the said Company.

[No. 21/84-Stamp-F. No. 33/21/84-ST]

नई दिल्ली, 7 अप्रैल 1984

आदेश

स्टाम्प

का० आ० 1266—भारतीय स्टाम्प अधिनियम 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार एतद् द्वारा गुजरात औद्योगिक विकास निगम को केवल तीन लाख नौ हजार और सात सौ पचास रुपये के उस समेकित स्टाम्प शुल्क की अदायगी करने की अनुमति देती है जो उक्त निगम द्वारा जारी किये जाने वाले चार करोड़ और तेरह लाख रुपये के अंकित मूल्य के ऋणपत्रों के रूप में बंध पत्रों पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं० 22/84-स्टाम्प-फा० सं० 33/9/82-वि०क०]

New Delhi, the 7th April, 1984

ORDER

STAMPS

S.O. 1266.—In exercise of the powers conferred by clause (b) of sub-section (1) of the section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the Gujarat Industrial Development Corporation to pay consolidated stamp duty of rupees three lakhs nine thousand and seven hundred fifty only, chargeable on account of the stamp duty on bonds in the form of debentures of the face value of rupees four crores and thirteen lakhs to be issued by the said Corporation.

[No. 22/84-Stamp-F. No. 33/9/82-ST]

आदेश

स्टाम्प

का० आ० 1267—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा महाराष्ट्र राज्य वित्तीय निगम, बम्बई को केवल तीन लाख इकहत्तर हजार, दो सौ पचास रुपये के उस समेकित स्टाम्प शुल्क की अदायगी करने की अनुमति देती है जो उक्त निगम द्वारा जारी किये जाने वाले 165 लाख रुपये के कुल अंकित मूल्य वाले 7% महाराष्ट्र राज्य वित्तीय निगम 1996 (III) बन्ध पत्र और तीन सौ तीस लाख रुपये के अंकित मूल्य वाले 7% महाराष्ट्र राज्य वित्तीय निगम बन्ध-पत्र 1997 पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं० 23/84-स्टाम्प-फा० सं० 33/30/83-वि०क०]

भगवान दास, अवर सचिव

ORDER
STAMPS

S.O. 1267.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the Maharashtra State Financial Corporation, Bombay, to pay consolidated stamp duty of rupees three lakhs seventy one thousand and two hundred and fifty only, chargeable on account of the Stamp Duty on 7 per cent Maharashtra State Financial Corporation Bonds, 1996 (III) of the total face value of Rs. 165 lakhs and 7 per cent Maharashtra State Financial Corporation Bonds 1997 of the total face value of Rs. 330 lakhs to be issued by the said Corporation.

[No. 23/84-Stamps-F. No. 33/30/83-ST]

BHAGWAN DAS, Under Secy.

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 28 दिसम्बर 1983

(आयकर)

का० आ० 1268.—आयकर अधिनियम 1961 (1961 का 43) की धारा 122 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में केन्द्रीय प्रत्यक्ष कर बोर्ड अधिकार देने वाली अन्य सभी शक्तियों का प्रयोग करते हुए तथा इस संबंध में पिछली सभी अधिसूचनाओं का अधिलेखन करते हुए केन्द्रीय प्रत्यक्ष कर बोर्ड एतद्वारा निदेश देता है कि नीचे दी गई अनुसूची के स्तम्भ संख्या 1 में विनिर्दिष्ट रेंजों के अपीलीय सहायक आयकर आयुक्त, आयकर लगाये जाने वाले उन सभी व्यक्तियों और आय को छोड़कर जो आयकर आयुक्त (अपील) के क्षेत्र अधिकार के अंतर्गत आते हैं, उक्त अनुसूची के स्तम्भ (2) की तदनुसूची प्रविष्टि में विनिर्दिष्ट आयकर बोर्डों परिमंडलों अथवा जिलों में आयकर लगाए जाने वाले सभी व्यक्तियों और आय के संबंध में अपने कार्यों का निर्वहन करेंगे।

अनुसूची

प्रधान कार्यालय सहित नाम	आयकर परिमंडल/वार्ड/जिले
1	2
अपीलीय सहायक आयकर आयुक्त, त्रिवेन्द्रम	1. आयकर परिमंडल, त्रिवेन्द्रम 2. आयकर वेतन परिमंडल, त्रिवेन्द्रम 3. आयकर केन्द्रीय परिमंडल त्रिवेन्द्रम 4. आयकर परिमंडल, फिलोन 5. आयकर परिमंडल तिरुवल्लूर 6. आयकर परिमंडल, कोट्टायम 7. आयकर परिमंडल, अल्लेप्पी
अपीलीय सहायक आयकर आयुक्त, एर्नाकुलम	1. आयकर परिमंडल, एर्नाकुलम 2. आयकर कंपनी परिमंडल, एर्नाकुलम

1	2
	3. आयकर केन्द्रीय परिमंडल, एर्नाकुलम 4. आयकर विशेष परिमंडल, एर्नाकुलम 5. आयकर सर्वेक्षण परिमंडल एर्नाकुलम 6. आयकर वेतन परिमंडल, एर्नाकुलम 7. आयकर परिमंडल, मट्टनचेरी 8. आयकर परिमंडल, आलवी 9. सम्पदा शुल्क परिमंडल, एर्नाकुलम 10. सम्पदा शुल्क परिमंडल, त्रिचूर
अपीलीय सहायक आयकर आयुक्त कालीकट	1. आयकर परिमंडल, त्रिचूर 2. आयकर परिमंडल 1 तथा II कालीकट 3. आयकर केन्द्रीय परिमंडल कालीकट 4. आयकर परिमंडल, कन्नानोर 5. आयकर परिमंडल, केसरगोड 6. आयकर परिमंडल, पालघाट

यतः कोई आयकर परिमंडल वार्ड जिला अथवा उसका कोई भाग इस अधिसूचना द्वारा एक रेंज से किसी अन्य रेंज में अन्तरित कर दिया जाता है उस आयकर परिमंडल वार्ड अथवा जिले अथवा उसके किसी भाग में किए गए कर-निर्धारणों से उत्पन्न होने वाली और इस अधिसूचना की तारीख से तत्काल पूर्व रेंज के उस अपीलीय सहायक आयुक्त के समक्ष विचाराधीन पड़ी अपीलें जिसके अधिकार क्षेत्र से उस आयकर परिमंडल वार्ड अथवा जिला अथवा उसका कोई भाग अन्तरित किया गया हो इस अधिसूचना के लागू होने की तारीख से रेंज के उस अपीलीय सहायक आयुक्त को अन्तरित की जाएगी और उसके द्वारा निपटायी जाएगी, जिसके अधिकार क्षेत्र में उक्त परिमंडल वार्ड अथवा जिला अथवा उसका कोई भाग अन्तरित किया गया हो।

यह अधिसूचना 1-1-1984 से लागू होगी।

[सं० 5551(फा० सं० 261/25/83—आ० क० न्या)०]

के० एम० सुल्तान, अवर सचिव
केन्द्रीय प्रत्यक्ष कर बोर्ड

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 28th December, 1983

(INCOME-TAX)

S.O. 1268.—In exercise of the powers conferred by the sub-section (1) of Section 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all previous notifications in this regard, the Central Board of Direct Taxes hereby directs that the Appellate Assistant Commissioners of Income-tax, of the Ranges specified in Column No. 1 of the Schedule below shall perform their functions in respect of all persons and incomes assessed to Income-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in Column (2) thereof excluding all persons and incomes assessed to Income-tax over which the jurisdiction vests in Commissioner of Income-tax (Appeals).

SCHEDULE

Name with Head-quarters	Income-tax Circles/Wards/Districts
(1)	(2)
Appellate Assistant Commissioner of Income-tax Trivandrum.	1. I.T. Circles, Trivandrum 2. I.T. Salary Circle, Trivandrum 3. I.T. Central Circle, Trivandrum 4. I.T. Circle, Quilon 5. I.T. Circle, Thiruvalla 6. I.T. Circle, Kottayam 7. I.T. Circle, Alleppey.
Appellate Assistant Commissioner of Income-tax, Ernakulam	1. I.T. Circle, Ernakulam 2. I.T. Companies Cir., Ernakulam 3. I.T. Central Circle, Ernakulam 4. I.T. Special Circle, Ernakulam 5. I.T. Survey Circle, Ernakulam 6. I.T. Salary Circle, Ernakulam 7. I.T. Circle, Mattancherry 8. I.T. Circle, Alwaye 9. Estate Duty Circle, Ernakulam 10. Estate Duty Circle, Trichur.
Appellate Assistant Commissioner of Income-tax Calicut	1. I.T. Circle, Trichur 2. I.T. Circle I & II, Calicut 3. I.T. Central Circle, Calicut 4. I.T. Circle, Cannanore 5. I.T. Circle, Kasargud 6. I.T. Circle, Palghat.

Whereas an Income-tax Circle/Ward/District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of the assessments made in that Income-tax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of the Range from whom the Income-tax Circle, Ward or District or part thereof is transferred shall from the date this notification takes effect, be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notification shall take effect from 1-1-1984.

[No. 5551(F.No. 261/25/83-ITJ
K.M. SULTAN, Under Secy.
Central Board of Direct Taxes

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 3 अप्रैल, 1984

का० आ० 1269.—भारतीय स्टेट बैंक (अनुषंगी बैंक) अधिनियम, 1959 (1959 की 38) की धारा 25 की उपधारा (i) के खण्ड (इ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय स्टेट बैंक के परामर्श से एतद्वारा नीचे की सारणी के कालम (2) में उल्लिखित व्यक्तियों को उनमें से प्रत्येक के सामने उसी सारणी के कालम (3) में उल्लिखित व्यक्तियों के स्थान पर सारणी के कालम (1) में दिए गए अनुषंगी बैंकों के निदेशक के रूप में नामित करती है :—

सारणी		
1	2	3
1. स्टेट बैंक आफ मैसूर	श्री यशपाल सेठी, उप सचिव वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग), नई दिल्ली	श्री एन० बाल- मुन्नहमण्यन
2. स्टेट बैंक आफ इंदौर	श्रीमती ताजवर रहमान साहनी उप सचिव वित्त मंत्रालय आर्थिक कार्य विभाग (बैंकिंग प्रभाग) नई दिल्ली	श्री एस० एस० हसूरकर
3. स्टेट बैंक आफ सौराष्ट्र	श्री च० बा० मीरचन्दानी, श्री अशोक कुमार निदेशक वित्त मंत्रालय आर्थिक कार्य विभाग (बैंकिंग प्रभाग) नई दिल्ली	
4. स्टेट बैंक आफ द्रावनकोर	श्री अहमद फरीद, उप सचिव वित्त मंत्रालय आर्थिक कार्य विभाग (बैंकिंग प्रभाग) नई दिल्ली	श्री च० बा० मीर- चन्दानी

[सं० एफ० 9/45/83-बी० ओ० -I]]
बी० के० सिबल संयुक्त सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 3rd April, 1984

S.O. 1269.—In exercise of the powers conferred by clause (e) of sub-section (1) of section 25 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government, in consultation with the State Bank of India, hereby nominates the persons specified in column (2) of the Table below as Directors of the Subsidiary Banks specified in column (1) thereof in place of the persons specified in the corresponding entry in column (3) of the said Table:

TABLE

(1)	(2)	(3)
1. State Bank of Mysore.	Shri Y.P. Sethi, Deputy Secretary, Ministry of Finance, Department of Economic Affairs, (Banking Division) New Delhi.	Shri N. Balasubramanian
2. State Bank of Indore	Mrs. Tajwar Rahman Sahni Deputy Secretary, Ministry of Finance, Department of Economic Affairs, (Banking Division) New Delhi.	Shri S.S. Hasurkar.
3. State Bank of Saurashtra	Shri C.W. Mirchandani, Director, Ministry of Finance, Department of Economic Affairs, (Banking Division) New Delhi.	Shri Ashok Kumar
4. State Bank of Travancore	Shri Ahmed Fareed, Deputy Secretary, Ministry of Finance, Department of Economic Affairs, (Banking Division) New Delhi.	Shri C.W. Mirchandani

[No. F.9/46/83—BO-I]

V.K. SIBAL, Jt. Secy.

नई दिल्ली, 6 अप्रैल, 1984

का० आ० 1270.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री एफ० एम० बंधिया को जयपुर नागौर आंचलिक

ग्रामीण बैंक, जयपुर का अध्यक्ष नियुक्त करती है तथा 19-3-84 से प्रारम्भ होकर 31-3-1987 को समाप्त होने वाली अवधि को उस अवधि के रूप में निर्धारित करती है जिसके दौरान श्री एफ० एम० बंधिया अध्यक्ष के रूप में कार्य करेंगे।

[संख्या एफ० 8-4/80-आर० आर० बी०]

एस० एस० हसूरकर, निदेशक

New Delhi, the 6th April, 1984

S.O. 1270.—In exercise of the powers conferred by sub-section (1) of section 11 of the Regional Rural Banks Act, 1976 (21 of 1976) the Central Government hereby appoints Shri F. M. Banthiya, as the Chairman of Jaipur Nagaur Aanchalik Gramin Bank, Jaipur and specifies the period commencing on the 19-3-1984 and ending with the 31-3-1987 as the period for which the said Shri F. M. Banthiya shall hold office as such Chairman.

[No. F. 8-4/80-RRB]

S. S. HASURKAR, Director

केन्द्रीय उत्पादन शुल्क समाहर्तालय

गुन्तूर, 3 मार्च, 1984

अधिसूचना सं० 1/84

का० आ० 1271.—केन्द्रीय उत्पादन शुल्क नियमावली 1944 के नियम 5 के अधीन मुक्त में विहित शक्तियों का प्रयोग करते हुए, मैं एतद्वारा, इस समाहर्तालय के डिवीजन कार्यालयों में केन्द्रीय उत्पादन शुल्क के प्रभारी सहायक समाहर्ताओं को, उनके अपने-अपने अधिकार क्षेत्र में प्रयोग में लाए जाने के लिए, केन्द्रीय उत्पादन शुल्क नियमावली 1944 के नियम 56 ए ए (2) के अधीन अनुमति प्रदान करने के लिए केन्द्रीय उत्पादन शुल्क के समाहर्ता की शक्तियां प्रयोजित करता हूँ।

2. यह अधिसूचना इस समाहर्तालय की दिनांक 14-1-83 की अधिसूचना संख्या 1/83 का अधिक्रमण करती है।

[क्रा० सी० सं० IV 16/22/84 एम० पी० =2]

सुकुमार शंकर, समाहर्ता

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE

Guntur, the 3rd March, 1984

NOTIFICATION NO. 1/84

S.O. 1271.—In exercise of the powers vested in me under Rule 5 of Central Excise Rules, 1944, I hereby delegate the powers of Collector of Central Excise to the Assistant Collectors of Central Excise in-charge of Divisions in this Collectorate to be exercised within their respective jurisdictions, for grant of permission under Rule 56AA(2) of Central Excise Rules, 1944.

2. This Notification supersedes Notification No. 1/83 dated 14-1-1983 of this Collectorate.

[C. No. IV/16/22/84 MP-2]

SUKUMAR SHANKAR, Collector.

व्यापिक मंत्रालय

नई दिल्ली, 5 अप्रैल, 1984

का० आ० 1272—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार मैसर्स दिल्ली टेस्ट हाउस 9/7 शक्तिनगर नयी दिल्ली 110007 को इससे संलग्न अनुसूची में विनिर्दिष्ट खनिज तथा अयस्कों का निर्यात से पूर्व निरीक्षण करने के लिए अभिकरण के रूप में इन शर्तों के अधीन रहते हुए, एक वर्ष की अवधि के लिए मान्यता देती है कि संगठन खनिज तथा अयस्क ग्रुप-I के निर्यात (निरीक्षण) नियम 1965 के नियम 4 के उपनियम (4) और खनिज अयस्क ग्रुप-II के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के उपनियम (4) के अधीन निरीक्षण प्रमाण पत्र देने के लिए संगठन द्वारा जलाई गयी निरीक्षण पद्धति की जांच करने के लिए निर्यात निरीक्षण परिषद् के किसी भी अधिकारी को पर्याप्त सुविधाएं देगी।

अनुसूची

1. फेरोमैंगनीज, स्लेग सहित फेरोमैंगनीज,
2. बाक्सआईड कैल्सिड बाक्सआईड सहित
3. मैंगनीज डायक्साईड
4. कार्बोनाईट
5. सिलीमनाईट
6. जिंक अयस्क जिंक कान्सेन्ट्रेटस सहित
7. मैंगनेसाइट,
8. बेराईट्स
9. लाल आक्साईड
10. पीला गैरिक
11. स्टेटाइट
12. फेल्डस्पार

[का० सं० 5/10/83 ई०-आई० एंड ई० पी०]

सी० बी० कुक्रेती, संयुक्त निदेशक

MINISTRY OF COMMERCE

New Delhi, the 5th April, 1984

S.O. 1272.—In exercise of the powers conferred by Section 7, of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) the Central Government hereby recognises for a period of one year M/s. Delhi Test House, 9/7 Shakti Nagar, New Delhi-110007, as an Agency for the inspection of Minerals and Ores specified in Schedule annexed hereto prior to export.

SCHEDULE

1. Ferromanganese, including ferromanganese slag.
2. Bauxite, including calcined bauxite.
3. Manganese Dioxide

4. Kyanite

5. Sillimanite

6. Zinc Ores, including zinc concentrates

7. Magnesite, including dead burnt and calcined magnesite

8. Barytes

9. Red Oxide

10. Yellow Ochre

11. Steatite

12. Feldspar

[F. No. 5/10/83-EI&EP]

C. B. KUKRETI, Jt. Director

ऊर्जा मंत्रालय

(पेट्रोलियम विभाग)

नई दिल्ली, 4 अप्रैल, 1984

का० आ० 1273.—पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा (2) खण्ड (क) के अनुसरण में और भारत सरकार पेट्रोलियम मंत्रालय की दिनांक 10 जनवरी, 1980 की अधिसूचना संख्या का० आ० 187 तथा दिनांक 28 मार्च, 1981 की अधिसूचना संख्या का० आ० 1230 का अतिरिक्त करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई अनुसूची के कालम (1) में दिये हुए प्राधिकारी को कथित अधिनियम के अधीन अनुसूची के कालम (2) में प्रविष्टि के अनुरूप लिखित क्षेत्रों के अन्दर सक्षम प्राधिकारी के कार्य करने के लिये प्राधिकृत करती है।

अनुसूची

प्राधिकारी और पता	क्षेत्राधिकार
1	2
श्री यू० एस० कोस्ता सीनियर पाईपलाइन इंजीनियर द्वारा इंडियन आयल कार्पोरेशन लिमिटेड (रिफाइनरीज तथा पाईपलाइन प्रभाग) मथुरा-जालंधर-उत्पाद पाईपलाइन दिल्ली टर्मिनल स्टेशन कॉम्प्लेक्स नजफगढ़ रोड बिजवासन नई दिल्ली 110061	उत्तर प्रदेश, हरियाणा, पंजाब राज्य और संघ शासित क्षेत्र दिल्ली

[संख्या औ०-12017/1/81-उत्पादन]

पी० के० राजगोपालन, डैस्क अधिकारी

MINISTRY OF ENERGY

(Department of Petroleum)

New Delhi, the 4th April, 1984

S.O. 1273.—In pursuance of Clause (a) of Section 2 of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in supersession of the

notifications of the Government of India in the Ministry of Petroleum S.O. No. 187 dated the 10th January, 1980 and S.O. No. 1230 dt. the 28th March, 1981 the Central Government hereby authorises the authority mentioned in Column 1 of the schedule below to perform the functions of the Competent Authority under the said Act, within the areas mentioned in the corresponding entry in Column 2 of the said schedule.

SCHEDULE

Authority & Address	Areas
Shri U.S. Kosta, Sr. Pipeline Engineer C/o Indian Oil Corporation Ltd., (Refineries & Pipelines Divn.) Mathura-Jullundur-Product Pipeline Delhi Terminal Station Complex, Najafgarh Road, Bijwasan, New Delhi-110 061	State of U.P., Haryana, Punjab and Union Territory of Delhi

[No. 0-12017/1/81-Prod.]

R.K. RAJAGOPALAN, Desk Officer

खाद्य एवं नागरिक पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)

भारतीय मानक संस्था

नई दिल्ली, 12 अप्रैल, 1984

क्र० आ० 1274.—भारतीय मानक संस्था की ओर से एतद्वारा अधिसूचित किया जाता है कि नीचे दी गई अनुसूची के स्तम्भ 2 और 3 में दी गई विभिन्न वस्तुओं से सम्बन्धी मुहर लगाने की फीस को स्तम्भ 4, 5 और 6 में उल्लेख के अनुसार पुनरीक्षित किया गया है। मुहर लगाने के पुनरीक्षित फीस की दर 1982-08-01 से लागू होंगी :

अनुसूची

क्रम संख्या	उत्पाद	भारतीय मानक की संख्या	इकाई	मुहर लगाने की दर प्रति इकाई इकाइयों के लिए		भारत के राजपत्र भाग II खंड 3 उपखण्ड (ii) में 2 का संदर्भ		
						अधिकतम एस ओ संख्या	आंशिक संशोधन एस ओ संख्या	जारी होने की तिथि
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	चाय की पेटियों के लिए प्साईबुड की पेटियाँ	IS : 10 (भाग 3)— 1974	12 अद्व का एक सेट	0.02	सभी	—	2442 1980-08-27	1980-09-20
2.	चाय की पेटियों के लिए घातु के फिटिंग	IS : 10 (भाग 4)— 1976	"	0.02	सभी	2351 1980-08-11	—	1980-09-13
3.	सामान्य कार्यों के लिए प्साईबुड	IS : 30-3-1975	10 मी ²	0.03	सभी	—	2445 1980-08-28	1980-09-20
4.	सीमेंट कंक्रीट के पाइप (प्रबलन सहित और रहित)	IS : 458—1971	एक मीटरी टन	2.50	सभी	2029 1969-05-09	—	1969-05-31
5.	अप्रबलित पनारी दार और ऊर्ध्व पनारी दार एस्बेस्टोस सीमेंट की चहरे	IS : 459—1970	एक मीटरी टन	0.35 0.25	पहली 10000 शेष के लिए	—	2442 1980-08-27	1980-09-27
6.	लवण कौचास स्टोनवेयर पाइप और फिटिंग	IS : 651—1971	"	1.00	सभी	—	2445 1980-08-28	1980-09-20
7.	अंग्रेजी टट्टियों और मूवा- लयों के लिए फ्लश की टंकियाँ (वाल्बरहित साइफनयुक्त)	IS : 774—1971	एक इस्पाती की टंकी	1.00 0.75 0.50	पहली 10000 अगली 10000 शेष के लिए	—	2442 1980-08-27	1980-09-20
			एक चीनी मिट्टी की टंकी	1.50 1.00 0.50	पहली 10000 अगली 10000 शेष के लिए			
8.	कौचास मिट्टी के टाइल	IS : 777—1970	1000 अक्षर	0.75 0.50	पहली 5000 शेष के लिए	—		

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
9. पानी के मीटर (घरेलू प्रकार के)	IS : 779—1978	एक पानी का मीटर	0.60 पहली 10000 0.30 शेष के लिए	—	2445	1980-09-20		
10. आग बुझाने के होज के डिलीवरी कपलिंगों तथा पाइपों टोटिया और टोटियों के पाने	IS : 903—1975	एक अवयव	0.75 पहली 3500 0.50 शेष के लिए	—	2010	1978-07-08		
11. आग बुझाने के नल, स्टैंड पोस्ट मुमा	IS : 908—1975	एक पानी का नल	5.00 सभी	—	2445	1980-09-20		
12. लकड़ी के पैन्ल लगे दरवाजों में किवाड़ (भाग 1) — 1977	IS : 10003	1 मीटर	0.50 सभी	—	2445	1980-09-20		
13. इस्पात के दरवाजे खिड़- कियाँ और रोशनीदान	IS : 1038—1975	एक मीटरी टन	6.00 सभी	1896 1967-05-22	—	1967-06-03		
14. मूल्यसूचियों के लिए स्थापित फ्लश की	IS : 2326—1970	1. एक इस्पात की टंकी 2. एक चीनी मिट्टी की टंकी	1.00 पहली 10000 0.75 अगली 10000 0.20 शेष के लिए 1.50 पहली 10000 1.00 अगली 10000 0.50 शेष के लिए	—	2445	1980-09-20		

[संख्या सी० एम० डी०/13:10]

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

INDIAN STANDARDS INSTITUTION

New Delhi, 12 April, 1984

S.O. 1274.—The Indian Standards Institution, hereby, notifies that the marking fees pertaining to various products referred to in Col. 2 and 3 of the following Schedule have been revised as mentioned in Col. 4, 5 and 6 thereof. The revised rate of marking fees shall come into force with effect from 1982-08-01:

SCHEDULE

Sl. No.	Product	IS : No.	Unit	Marking Fee Rate		Reference to Govt. of India Gazette		
				Per unit	For unit	Notification Part-II Section-3 Sub-section (ii)		
				Rs.	P.	Superseded S.O.No.	Partially Modified S.O.No.	Date of Issue
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Plywood tea-chest battens	IS : 10 (Pt. III)—1974	One set of 12 Pieces	0.02	All	—	2442 1930-03-27	1930-09-20
2.	Plywood Tea-chest metal fittings	IS : 10 (Pt. IV)—1976	-do-	0.20	All	2351 1980-08-11	—	1930-09-13
3.	Plywood for general purposes	IS : 303—1975	10m ²	0.30	All	—	2445 1930-03-27	1930-09-20
4.	Cement concrete pipes (with and without rein-forcement)	IS : 458—1971	One Tonne	2.50	All	2029 1959-05-09	—	1959-05-31
5.	Unreinforced corrugated and semi-corrugated asbestos cement sheets	IS : 459—1970	One Tonne	0.35 First 10000 0.25 Remaining	All	—	2442 1930-03-27	1930-09-20
6.	Salt glazed stoneware pipes and fittings	IS : 651—1971	-do-	1.00	All	—	2445 1930-03-28	1930-09-20

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
7. Flushing cisterns for water closets and urinals (valveless siphonic type)	IS : 774—1971	(i) One Steel cistern (ii) One Vitreous cistern	1.00 0.75 0.50 1.50 1.00 0.50	First 10000 Next 10000 Remaining First 10000 Next 10000 Remaining	—	—	2442 1980-08-27	1980-09-20
8. Glazed earthen ware tiles	IS : 777—1970	1000 pieces	0.75 0.50	First 5000 Remaining	—	—	-do-	-do-
9. Water meters (domestic type)	IS : 779—1978	One water meter	0.60 0.30	First 10000 Remaining	—	—	2445 1980-08-28	1980-09-20
10. Fire hose delivery couplings, branch pipe, nozzles and nozzle spanner	IS : 903—1975	One piece	0.75 0.50	First 3500 Remaining	—	—	2010 1978-05-23	1978-07-08
11. Fire hydrant, stand post type	IS : 908—1975	One Fire hydrant	5.00	All	—	—	2445 1980-08-28	1980-09-20
12. Timber panelled door shutters	IS : 1003 (Pt. I) 1977	1m ²	0.50	All	—	—	2445 1980-08-28	1980-09-20
13. Steel doors, windows and ventilators	IS : 1038—1975	One Tonne.	6.00	All	1896 1967-05-22	—	—	1967-06-03
14. Automatic flushing cisterns for urinals	IS : 2326—1970	(i) One steel cistern (ii) One Vitreous cistern	1.00 0.75 0.20 1.50 1.00 0.50	First 10000 Next 10000 Remaining First 10000 Next 10000 Remaining	—	—	2445 1980-08-28	1980-09-20

[CMD/13 : 10]

क्र० अ० 1275.- भारत के राजपत्र भाग II, खंड 3, उपखंड (ii) दिनांक 1980-09-20 में प्रकाशित तत्कालीन वाणिज्य एवं नागरिक पूर्ति मंत्रालय (नागरिक पूर्ति विभाग) (भारतीय मानक संस्था) अधिसूचना संख्या एस०अ० 2445 दिनांक 1980-08-24 का आंशिक रूप में संशोधन करते हुए भारतीय मानक संस्था द्वारा अधिसूचित किया जाता है कि कांचाभ सेनेटरी साधनों की मुहर लगाने की प्रति इकाई कीमत का पुनरीक्षण किया गया है। मुहर लगाने की पुनरीक्षित दरें जिनके बारे में नीचे अनुसूची में दिए गए हैं, 1983-01-01 से लागू होंगी :

अनुसूची

क्रम सं०	वस्तु	भारतीय मानक की संख्या	इकाई	मुहर लगाने की कीमत	
				प्रति इकाई (5) रु० पै०	इकाई के लिए (6)
(1)	(2)	(3)	(4)	(5)	(6)
1. कांचाभ सेनेटरी साधन (सामान्य अपेक्षाएँ)	IS : 2556 (भाग 1) — 1974		एक सीटरी टन	2.50	सभी
2. अधोबाही पानी की टंकियाँ	IS : 2556 (भाग 2) — 1973		-बही-	2.50	सभी
3. बैठने की टट्टियाँ	IS : 2556 (भाग 3) — 1973		-बही-	2.50	सभी
4. बाश बेसन	IS : 2556 (भाग 4) — 1972		-बही-	2.50	सभी
5. प्रयोगशाला सिंक	IS : 2556 (भाग 5) — 1967		-बही-	2.50	सभी
6. मूत्रालय (व्यालेनुमा)	IS : 2556 (भाग 6/अनु 1) — 1979		-बही-	2.50	सभी
7. मंत्रालय (अर्द्ध मूत्रालय)	IS : 2556 (भाग 6/अनु 2) — 1974		-बही-	2.50	सभी

(1)	(2)	(3)	(4)	(5)	(6)
8. मूत्रालय (बैठने की पट्टी वाले)	IS : 2556 (भाग 6/अनु 3)—1974	एक मीटरी टन	2.50	सभी	
9. मूत्रालय (विभाजन पट्टे वाले)	IS : 2556 (भाग 6/अनु 4)—1974	-वही-	2.50	सभी	
10. मूत्रालय (गंदे पानी की फिटिंग)	IS : 2556 (भाग 6/अनु 5)—1974	-वही-	2.50	सभी	
11. मूत्रालय (जल छिड़काव वाले)	IS : 2556 (भाग 6/अनु 6)—1974	-वही-	2.50	सभी	
12. अर्द्धगोल सैमल	IS : 2556 (भाग 7)—1973	-वही-	2.50	सभी	
13. साइफननुमा अधोवाही पानी की टंकिया	IS : 2556 (भाग 8)—1973	-वही-	2.50	सभी	
14. निडेट	IS : 2556 (भाग 9)—1979	-वही-	2.50	सभी	
15. पायबान	IS : 2556 (भाग 10)—1974	-वही-	2.50	सभी	
16. शॉवर रोज़	IS : 2556 (भाग 11)—1979	-वही-	2.50	सभी	
17. फर्श ट्रैप	IS : 2556 (भाग 12)—1973	-वही-	2.50	सभी	
18. बैठने की टट्टियों के लिए ट्रैप	IS : 2556 (भाग 13)—1973	-वही-	2.50	सभी	
19. समेकित बैठने की टट्टियाँ	IS : 2556 (भाग 14)—1974	-वही-	2.50	सभी	
20. यूनिवर्सल पानी की टंकियाँ	IS : 2556 (भाग 15)—1974	-वही-	2.50	सभी	

[सं. सी०एम० डी०/13 : 10]

ए० एस० चीमा, अपर महानिदेशक

S.O. 1275.—In partial modification of the then Ministry of Commerce & Civil Supplies (Department of Civil Supplies) (Indian Standards Institution) notification No. S.O. 2445 dated 1980-08-28, published in the Gazette of India, Part-II, Section-3, Sub-section (ii) dated 1980-09-20, the Indian Standards Institution, hereby, notifies that the marking fee per unit for vitreous sanitary appliances have been revised. The revised rate of marking fees, details of which are given in the following Schedule, shall come into force the effect from 1983-01-01 :

SCHEDULE

Sl. No.	Product	IS No.	Unit	Marking Fee	
				Per Unit	For unit
				Rs.	P
1.	Vitreous sanitary appliances (general requirement)	IS : 2556 (Pt. I)—1974	One Tonne	2.50	All
2.	Wash-down water closets	IS : 2556 (Pt. II)—1973	-do-	2.50	All
3.	Squatting pans	IS : 2556 (Pt. III)—1973	-do-	2.50	All
4.	Wash-basins	IS : 2556 (Pt. IV)—1972	-do-	2.50	All
5.	Laboratory sinks	IS : 2556 (Pt. IV)—1967	-do-	2.50	All
6.	Urinals (bowl type)	IS : 2556 (Pt. VI/Sec 1)—1979	-do-	2.50	All
7.	Urinals (Half stall urinals)	IS : 2556 (Pt. VI/Sec 2)—1974	-do-	2.50	All
8.	Urinals (squatting plates)	IS : 2556 (Pt. VI/Sec 3)—1974	-do-	2.50	All
9.	Urinals (partition slabs)	IS : 2556 (Pt. VI/Sec 4)—1974	-do-	2.50	All
10.	Urinals (Waste fittings)	IS : 2556 (Pt. VI/Sec 5)—1974	-do-	2.50	All
11.	Urinals (water spreaders)	IS : 2556 (Pt. VI/Sec 6)—1974	-do-	2.50	All
12.	Half-round channel	IS : 2556 (Pt. VII)—1973	-do-	2.50	All
13.	Siphonic Wash-down water closets	IS : 2556 (Pt. VIII)—1973	-do-	2.50	All
14.	Bidets	IS : 2556 (Pt. IX)—1979	-do-	2.50	All
15.	Foot rests	IS : 2556 (Pt. X)—1974	-do-	2.50	All
16.	Shower rose	IS : 2556 (Pt. XI)—1979	-do-	2.50	All
17.	Floor-traps	IS : 2556 (Pt. XII)—1973	-do-	2.50	All
18.	Traps for squatting pans	IS : 2556 (Pt. XIII)—1973	-do-	2.50	All
19.	Integrated squatting pans	IS : 2556 (Pt. XIV)—1974	-do-	2.50	All
20.	Universal water closets	IS : 2556 (Pt. XV)—1974	-do-	2.50	All

[No. C.M.D./13 : 10]

A.S. CHEEMA, Additional Director General

पर्यटन और नागर विमानन मंत्रालय

नई दिल्ली, 26 मार्च, 1984

का० आ० 1276—वायु निगम अधिनियम, 1953 (1953 का 27) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा पर्यटन के महा-निदेशक श्री एन० के० सेनगुप्ता (आई० ए० एस० पश्चिमी बंगाल : 1957 को तत्काल तथा 16 जुलाई 1984 तक श्री जी० एन० मेहरा के स्थान पर एयर इंडिया तथा इंडियन एयरलाइंस के निदेशक मंडल में निदेशक नियुक्त करती है।

[संख्या एवी 18013/2/82-एसी]

आर० एन० भार्गव, अवर सचिव

MINISTRY OF TOURISM & CIVIL AVIATION

New Delhi, the 26th March, 1984

S.O. 1276.—In exercise of the powers conferred by Section 4 of the Air Corporations Act, 1953 (27 of 1953), the Central Government hereby appoints Shri N. K. Sengupta (IAS WB: 1957) Director General of Tourism as Director on the Boards of Air India and Indian Airlines with immediate effect and upto 16th July, 1984 vice Shri G. N. Mehra.

[No. AV. 18013/2/82-AC]

R. N. BHARGAVA, Under Secy.

श्रम और पुनर्वास मंत्रालय

(श्रम विभाग)

नई दिल्ली, 31 मार्च, 1984

का०आ० 1277.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (4) के उपखण्ड (6) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का०आ० 3838 तारीख 21 सितम्बर 1983 द्वारा तांबा खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 1 अक्टूबर 1984 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (4) के उपखण्ड (6) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग का उक्त अधिनियम के प्रयोजनों के लिए 1 अप्रैल, 1984 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[का० सं० 11017/5/81-डी-1(ए)]

MINISTRY OF LABOUR AND REHABILITATION
(Labour Department)

New Delhi, the 31st March, 1984

S.O. 1277.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance

of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 3838 dated the 21st September, 1983 the Copper Mining Industry to be a public utility service for the purpose of the said Act, for a period of six months, from the 1st October, 1983;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 1st April, 1984.

[F. No. S-11017/5/81-D.I (A)]

नई दिल्ली, 9 अप्रैल, 1984

आदेश

का० आ० 1278—भारत सरकार के तत्कालीन श्रम और रोजगार मंत्रालय की अधिसूचना संख्या का० आ० 458 तारीख 5 फरवरी, 1963 द्वारा गठित श्रम न्यायालय जालन्धर के पीठासीन अधिकारी का पद रिक्त हुआ है;

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 के उपबन्धों के अनुसरण में केन्द्रीय सरकार श्री बलवन्त राय को उक्त न्यायालय के पीठासीन अधिकारी के रूप में नियुक्त करती है।

[एफ० संख्या एस-11020/2/81 डी-1 (ए)]

एस० एच० एस० अय्यर, अवर सचिव

New Delhi, the 9th April, 1984

ORDER

S.O. 1278.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Labour Court, Jullundur, constituted by the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 458 dated the 5th February, 1963;

Now, therefore, in pursuance of the provisions of section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri Balwant Rai, as the Presiding Officer of the said Court.

[F. No. S-11020/2/81-D. I(A)]

S. H. S. IYER, Under Secy.

नई दिल्ली, 4 अप्रैल, 1984.

का०आ० 1279.—केन्द्रीय सरकार को यह प्रतीत होता है कि मिसर्स प्रगति आर्ट प्रिन्टर्स, राज भवन रोड, लालेदी-कपूर, हैदराबाद, आन्ध्र प्रदेश नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते

हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(59)/84-पी० एफ०-2]

New Delhi, the 4th April, 1984

S.O. 1279.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Pragati Art Printers, Rajbhavan Road, Laledikapool, Hyderabad, Andhra Pradesh have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S. 35019(59)/84-PF-II]

का०आ० 1280.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सुन्दरावेल कैच इण्डस्ट्रीज प्राइवेट लिमिटेड यूनिट 2, क्रम सं० 1204/1 ए, वझाकिनार स्ट्रीट, तीरु-थंगल-शाकघर, रामनाड जिला, तमिलनाडू नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 2 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(62)/84-पी० एफ०-2]

S.O. 1280.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Sundaravel Katch Industries Private Limited, Unit No. 2, S. No. 1204/1A, Vazhaikinar Street, Tiruthangal P.O., Ramnad District, Tamilnadu have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S. 35019(62)/84-PF-II]

का०आ० 1281.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स केसी डीजल्स प्राइवेट लिमिटेड, के-62, सारथ नगर, लुधियाना-141001, पंजाब तथा (1) 6, क्वीन्स रोड, विक्टोरिया होटल के पास अमृतसर (2) शाहपुर रोड, उत्तम गार्डन, पठानकोट तथा (3) 1861, सेक्टर 34-डी चंडीगढ़ स्थित इसकी शाखाओं सहित नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(56)/84-पी० एफ०-2]

S.O. 1281.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Ca-ysee Diesels Pvt. Limited, K-62, Sarabha Nagar, Ludhiana-141001, Punjab and its branches at 6, Queen Road, Near Victoria Hotel, Amritsar, (ii) Shahpur Road, Uttam Garden, Pathankot and (iii) 1861, Sector 34-D, Chandigarh have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(56)/84-PF-II]

का०आ० 1282.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स स्मूथवे आटो इण्डस्ट्रीज, एस-88, इण्डस्ट्रियल एरिया, जालन्धर सिटी, पंजाब नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(57)/84-पी० ए०-2]

S.O. 1282.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Smoothway Auto Industries, S-88, Industrial Area, Jullundur City, Punjab have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(57)/84-PF-II]

का०आ० 1283.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स रासी सीमेंट लिमिटेड, विष्णुपुरम, बाडापल्ली, निरवाणगुडा तालुक, नलगुण्डा डिस्ट्रिक्ट, आन्ध्र प्रदेश तथा 1-10-125, अशोक नगर, हैदराबाद स्थित इसके मुख्य कार्यालय सहित नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम,

1952 (1952 का 19), के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(58)/84-पी एफ-2]

S.O. 1283.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Raasi Cement Limited, Vishnipuram, Wadapally, Miryalguda Taluk, Nalgunda District, Andhra Pradesh including its Head Office at 1-10-125, Ashok Nagar, Hyderabad have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(58)/84-PF-II]

का०आ० 1284.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स यूनिवर्सल इण्डस्ट्रियल सिक्योरिटी सर्विसेज प्राइवेट लिमिटेड, 41, जी०सी०डी०ए० स्टेडियम बिल्डिंग, के०एस०आर०टी०सी० बस स्टैंड के पास कोचीन-682011, केरल नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(60)/84पी० एफ०-2]

S.O. 1284.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Universal Industrial Security Services Pvt. Ltd., 41, G.C.D.A. Stadium Building, Near K.S.R.T.C. Bus Stand, Cochin-682011, Kerala have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(60)/84-PF-II]

का०आ० 1285.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स राजस्थान कन्सल्टेंट्स औरगनाइजेशन लिमिटेड, देवी निकेतन, सरदार पटेल मार्ग, जयपुर-302001, राजस्थान नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की

बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(61)/84/पी एफ-2]

S.O. 1285.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Rajasthan Consultancy Organisation Limited, Devi Niketan, Sardar Patel Marg, Jaipur-302001, Rajasthan have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(61)/84-PF-II]

का०आ० 1286.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स स्विस् ज्वेलर्स (इंडिया) लि० 2 एफ, कोर्ट चैम्बर, 35, न्यू मरिन लाईन्स, बम्बई-400020 और कार्यालय 42-कुशास बाजार, 32/33, नेहरू प्लेस, नई दिल्ली-19 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35018(3)/84/पी एफ-2]

S.O. 1286.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Swiss Jewels (India) Limited, 2F, Court Chambers, 35, New Marine Lines, Bombay-400020 including its office at 42-Kusal Bazar, 32/33, Nehru Place, New Delhi have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35018(3)/84-PF-II]

कांआ० 1287.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स देवाग इलेक्ट्रॉनिक्स (प्राइवेट) लि०, प्लॉट नं० 96 रोड नं० 18 बागले इण्डस्ट्रियल इस्टेट थाने (महाराष्ट्र) नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35018(5)/84/पी०एफ०-2]

S.O. 1287.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Dewag Electronics (P) Limited, Plot No. A-96 Road No. 18, Thane-400 604 (Maharashtra) have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35018(5)/84-PF-II]

कांआ० 1288.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स इण्डो नेपलास्ट इण्डस्ट्रीज एन०एम०ई० इस्टेट वीस्ट्रन एक्सप्रेस हाईवे गोरगन (ई) बम्बई-63 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35018(6)/84/पी०एफ०-2]

S.O. 1288.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Indo Neplast Industries, N.S.E., Estate, Western Express Highway, Goregaon (E), Bombay-63 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35018(6)/84-PF-II]

कांआ० 1289.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स जमिराह टी कम्पनी लि० 5 एण्ड 6 फेन्सी लेन (5वीं मंजिल) कलकत्ता नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35017(16)/84/पी०एफ०-2]

S.O. 1289.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Jamirah Tea Company Limited, 5 & 6 Fancy Lane (5th floor), Calcutta-1 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35017/16/84-PF-II]

कांआ० 1290.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स रुपकथा सिनेमा, साउथ धाडका रोड, आसनसोल जिला बर्दवान नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35017(17)/84/पी०एफ०-2]

S.O. 1290.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs. Rupkatha Cinema, South Dhadka Road, Asansol, Dist. Burdwan have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35017/17/84-PF-II]

का०आ० 1291.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स श्री बिशन् आयल मिल प्राइवेट लि० जमीनदार रोड, शिवोराफुल्ली हुगली नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35017(18)/84/पी०एफ-2]

S.O. 1291.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as the Messrs Sri Bishnu Oil Mill Pvt. Limited, Zemindar Road, Sheoraphuli Hooghly have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35017(18)/84-PF-II]

नई दिल्ली 5 अप्रैल, 1984

का०आ० 1292.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सूर्या कैपसुल्स प्राइवेट लि० विलेज आशवे आशागढ़ देहानु रोड 40/602 महाराष्ट्र और इसका हेड आफिस 402 शिवाला, 11 सोबानी रोड कोलबा बम्बई-400005 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35018(4)/84/पी०एफ-2]

New Delhi, the 5th April, 1984

S.O. 1292.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as the Messrs Surya Capsules Private Limited, Village Aswe, Ashagarh, Dehanu Road-401602, Maharashtra including its Head Office at 402, Shivala, 11, Sobani Road, Colaba, Bombay-400005 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35018(4)/84-PF-II]

नई दिल्ली, 6 अप्रैल, 1984

का०आ० 1293.—केन्द्रीय सरकार कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) की धारा 17 की उपधारा (2क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के श्रम और पुनर्वास मंत्रालय की अधिसूचना सं० का० आ० 4131 तारीख 22-11-82 में निम्नलिखित संशोधन करती, अर्थात् :—

उक्त अधिसूचना में—

- (1) "भारतीय जीवन बीमा निगम की सामूहिक बीमा स्कीम" शब्दों के स्थान पर जहां-जहां वे आते हैं "चरण इंजीनियरी कर्मचारी कुटुम्ब फायदा स्कीम" शब्द रखे जाएंगे।
- (2) "भारतीय जीवन बीमा निगम" शब्दों के स्थान पर जहां-जहां वे आते हैं "चरण इंजीनियरी कर्मचारी कुटुम्ब फायदा स्कीम के न्यासी" शब्द रखे जाएंगे।

[सं० एस-35014(323)/82-पी०एफ-2]

New Delhi, the 6th April, 1984

S.O. 1293.—In exercise of the powers conferred by sub-section (2A) of Section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour and Rehabilitation No. S.O. 4131 dated 22nd November, 1982 namely :—

In the said notification.—(i) for the words "Group Insurance Scheme of the Life Insurance Corporation of India" wherever they occur, the words "Cheran Engineering Employees' Family Benefit Scheme" shall be substituted;

(ii) for the words, "Life Insurance Corporation of India", wherever they occur, the words "Trustees of the Cheran Engineering Employees' Family Benefit Scheme" shall be substituted.

[No. S. 35014(323)/82-PF-II]

का०आ० 1294.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स पेडगो हाईड्रोलिक्स 87 ओल्ड मद्रास रोड दूरवाणी नगर बंगलौर-560016 कर्नाटक नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(63)/84/पी०एफ-2]

New Delhi, the 6th April, 1984

S.O. 1294.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Padgo Hydraulics, 87, Old Madras Road, Dooravani Nagar, Bangalore-560016, Karnataka have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(63)/84-PF-II]

का० आ० 1295.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स मून टैक्सटाइलस यु० राम० मिस्त्री कम्पाउंड निगर इण्डस्ट्रीयल इस्टेट बापू नगर अहमदाबाद, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019 (64)/84-पी० एफ-2]

S.O. 1295.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Moon Textiles, U. M. Mistry Compound, Near Industrial Estate, Bapunagar, Ahmedabad have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(64)/84-PF-II]

का० आ० 1296.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स प्लावी टैक्सटाइलस, यु० राम० मिस्त्री कम्पाउंड, निगर इण्डस्ट्रीयल इस्टेट, बापू नगर, अहमदाबाद;

नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(65)/84-पी० एफ-2]

28 GI/84—3

S.O. 1296.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Pallavi Textiles, U. M. Mistry Compound, Near Industrial Estate, Bapunagar, Ahmedabad have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(65)/84-PF-II]

का० आ० 1297.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स बिलकेश्वर टैक्सटाइलस, यू० राम० मिस्त्री कम्पाउंड निगर इण्डस्ट्रीयल इस्टेट, बापू नगर, अहमदाबाद-23 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(66)/84-पी० एफ-2]

S.O. 1297.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Billeshwar Textiles, U. M. Mistry Compound, Near Industrial Estate, Bapunagar, Ahmedabad-23 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(66)/84-PF-II]

का० आ० 1298.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स गोतम टैक्सटाइलस, यु० राम० मिस्त्री कम्पाउंड, निगर इण्डस्ट्रीयल इस्टेट, बापू नगर, अहमदाबाद-23 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(67)/84-पी० एफ-2]

S.O. 1298.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Gautam Textiles, U. M. Mistry Compound, Near Industrial Estate, Bapunagar, Ahmedabad-23 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(67)/84-PF. II]

कांआ० 1299.—केन्द्रीय सरकार को यह प्रतीत होता है कि मेसर्स ज्योति टेक्सटाइल्स, यू.एम. मिस्ट्री कम्पाउंड, नियर इण्डस्ट्रीयल इस्टेट, बापू नगर, अहमदाबाद-23 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(68)/84/पी० एफ०-2]

ए० के० भट्टारai, अवर सचिव

S.O. 1299.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Jyoti Textiles, U. M. Mistry Compound, Near Industrial Estate, Bapunagar, Ahmedabad-23 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section I of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(68)/84-PF-II]

A. K. BHATTARAI, Under Secy.

New Delhi, the 30th March, 1984

S.O. 1300.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd., Bellampalli Area and their workmen, which was received by the Central Government on the 26th March, 1984.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

PRESENT :

Sri M. Srinivasa Rao, M.A., LL.B., Industrial Tribunal.

Industrial Dispute No. 3 of 1982

BETWEEN

The workmen of Singareni Collieries Company Limited,
Bellampalli, Adilabad.

AND

The Management of Singareni Collieries Company Limited,
Bellampalli (Adilabad Distt.)

APPEARANCES :

Sri G. Bikshapathi, Advocate—for the Workmen.

Sri K. Srinivasa Murthy and Miss G. Sudha, Advocates—for the Management.

AWARD

The dispute referred to this Tribunal under Section 7A and 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India by its Letter No. L-21011 (9)/81-D.IV(B), dated 3-2-1982 is :

"Whether the management of M/s. Singareni Collieries Company Limited, Bellampalli area is justified ?

(i) In not paying wages and daily allowance to S/Shri M. Shankar Goud and K. S. Mathews, Lorry Drivers of Mandamari Division for 4½ days in the month of August, 1978 towards their trip to Rourkela and back; and

(ii) In not paying special allowance of Rs. 50 per month to S/Shri M. Swamy and Tukaram, School Bus Drivers of Mandamari Division ?

If not, to what relief are the workmen entitled ?"

2. In the claims statement filed on behalf of the workmen, it is stated with reference to Issue 1 in the reference that the two Drivers mentioned therein left Mandamari on 30-7-1978 for Rourkela for bringing explosives and by the time they reached Rourkela on 3-8-1978 at about 7.00 P.M. there was heavy rain, that the explosives were loaded on 9-8-1978 and it was 6.00 p.m. by the time the formalities were over; that as there was heavy down-pour the Drivers kept the lorries at the I.D.L. Gate itself at Rourkela and started return journey at 6.00 a.m. on 10-8-1978, that on 11-8-1978 they reached Gazipur road and the Drivers found that water came into the body of the lorry and as the explosives were likely to be spoiled due to that water, they took the lorry to the shop of the Sind Body Builder and purchased some wooden planks and unloaded the explosives and placed planks on the body and on them the packages were loaded again; that this operation took place till 4.00 p.m. that there was heavy and incessant rain, that in that rain they reached Jangaredy-gudem but water canal across the road was over flowing and it was not possible to cross the canal, that the lorry was therefore diverted towards Eluru and Chintalapudi and there also water was heavily flowing across the road, that again the lorry was diverted back and it passed through Vijayawada, Khammam and reached Torneru, that at Vardhanapeta a lorry fell across the water canal on the road and the traffic was held up and ultimately this lorry started at 8.00 a.m. on 16-8-1978 as it has stopped for want of clear road at Vardhannapeta and reached Mandamarri on 16-8-1978 at about 5.00 p.m. It is averred that the Drivers after undergoing stress and strain in order to save the property of the Company had to take precautions but yet the Management issued a Memo and ordered reduction of 44 days wages. that the Drivers explained the reasons for the delay in their representation but in vain, that the Union took up the issue with the Management but as there was no response the Union gave strike notice also, that the matter was moved in conciliation thereafter and finally leading to this reference. It is contended that the Management is unjustified in deducting 4-1/2 days wages from the salary of these Drivers, that it failed to consider the reasons for the late arrival of the lorry, that no opportunity was given to the workmen before effecting the deduction and that the deduction is also contrary to the provisions of the payment of Wages Act and therefore it has to be held that the action of the Management in not paying the wages for 4-1/2 days is not justified and the Management should be directed to refund the same with interest.

3. Regarding the second issue, it is mentioned in the claims statement that the Drivers attached to the school bus are required to perform duties without fixed hours and should be available to suit the school timings irrespective of the general timing of the drivers and in order to compensate the said inconvenience and hardship involved in such duties, the Management granted Rs. 50.00 to the Drivers of school

bus, that M. Swamy and Tukkaram mentioned in the reference were working as school bus drivers for Mandamarri and were getting this special allowance which was being granted to all the school bus drivers in all the Divisions of Singareni Collieries Company Limited, but the Management suddenly stopped this special allowance to these drivers with effect from 1-1-1980 while the other school bus drivers in other Divisions continue to get it and that this stoppage is illegal and discriminatory and created discontentment and also amounts to victimisation and unfair labour practice and therefore an award should be passed holding that the Management is not justified in not paying the special allowance to these two Drivers and directing the Management to restore it and pay the arrears from 1-1-1980.

4. In the written statement filed by the Management it is mentioned with reference to the first issue that the two Drivers took four days to reach Rourkela though the running time normally is 2-1/2 days or at the most three days, that having started return journey on 9-8-1978 they returned to Mandamarri on 16-8-1978 and thereby took 7 days for the return journey and thus they took 11 days and odd for this trip causing thereby loss and inconvenience to the Management and that the claimants had not shown reasonable grounds for this inordinate delay. Statements that there was heavy rain cannot be a ground for explaining the delay in reaching Rourkela. The reason for the delay for the onward journey was not given and the reasons shown in the claims statement for the delay in return journey are concocted and the Petitioners have to prove those reasons for that abnormal delay. The delays from place to place and day to day are not in the T.A. Bills. These Drivers were paid daily wages and T.A. for more than reasonable period taking the maximum extra time for the trip and therefore the reduction for 4-1/2 days is not illegal, nor is it contrary to the provisions of the Payment of Wages Act, and the action of the Management is proper and this issue cannot be raised as an industrial dispute. Regarding the second issue, it is pleaded in this reply statement that the working hours for school bus drivers are specified as general shift working hours i.e. from 7.00 a.m. to 12.00 noon and from 2.30 p.m. to 5.30 p.m. and in fact they do not have full work even for this period and the question of payment of additional allowance of Rs. 50.00 per month does not arise and the allegation that the two drivers were getting special allowance of Rs. 50.00 is not correct, that the allegation that this allowance is granted to all school bus drivers in the Colliery is also not correct, and the Management pays special allowance to drivers who proceed to pick up the school children from Bellampalli and go to Mandamarri at about 8.00 A.M. and return back in the evening at 6.30 P.M., that though these drivers do not effectively work all the time they remain on duty with the bus at Mandamarri away from their office and as the drivers go to far place from their office they are paid special allowance of Rs. 50.00 per month, but the drivers in the reference take the school children at 7.00 a.m. from Mandamarri to Mandamarri school and return home at 10 a.m. and again report to duty at 3.00 p.m. and return home by 5.30 p.m. and they cannot be compared to the drivers proceeding from Bellampalli to Mandamarri and as these claimants are working during the general shift hours and actually work for less than 8 hours they are not put to any inconvenience and there are no valid reasons for granting special allowance to them.

5. As the reference and the claims statement and the reply statement would show, there are two separate issues referred to this Tribunal for adjudication. Issue 1 relates to disallowing of wages for 4-1/2 days to the two Drivers mentioned therein for their trip to Rourkela and back and the second issue relates to the special allowance claimed by two school bus drivers of Mandamarri whose names are mentioned in that issue. T. Tukkaram one of the school bus drivers is examined as W.W. 1 and M. Shankar Goud one of the lorry drivers connected with Issue No. 1 is examined as W.W. 2. W.W. 3 Bhasava Rao, the Secretary of Singareni Collieries Motor Drivers Association, Mandamarri Division is examined to say that his Union espoused the cause of these workmen. These witness given evidence in support of their averments in the claims statement on behalf of the Management Mr. M. Srirama who is now working as Senior Divisional Engineer at Bellampalli and who was working as Deputy Controller of Stores at Mandamarri previously and

who was in charge of Transport and Material Management is examined as M.W. 1. He is the Officer that disallowed 4-1/2 days wages and D.A. to the two Lorry Drivers and regarding Issue 2 he states that there is no justification for the school bus drivers in the reference to claim the special allowance of Rs. 50.00, and I shall presently refer to the relevant portions of the evidence of these witnesses. M.W. 2 K. Ramdas the Personnel Officer in Coal Chemical Complex in Singareni Collieries is examined to file Exs. M4 and M5 letters obtained from Ramagundam and Yellandu Divisions stating that the Drivers working on School buses in those Divisions are not paid the allowance of Rs. 50.00.

6. I shall first consider the claim under Issue 2 as the Workmen commenced their evidence with that issue. Though in the claims statement it is indicated as if the two drivers mentioned in Issue 2 were being paid the Special Allowance of Rs. 50.00 and Management suddenly discontinued it, W.W. 1 in his evidence admits in cross-examination that he was never paid any special allowance. He however mentions that there are two school buses at Mandamarri and three buses at Bellampalli and one bus at Coal Chemical Complex for bringing school children to Mandamarri school and the drivers of Bellampalli and Coal Chemical Complex buses are being paid the special allowance of Rs. 50.00 per month and prior to 1-1-1980 the driver of the school bus at Mandamarri was being paid that allowance but that is now stopped to him and M. Swamy the other driver and therefore they are claiming the special allowance. The justification for this special allowance put forth by this workman is that they go to duty at 7.00 a.m. for bringing the children for school and get down from duty at 6.00 p.m. after leaving the children at their houses and if there are any special classes for the students they have to stay at the school for one or two hours more also. In cross-examination he says that he stays at the school till 5.00 p.m. and denies the suggestion that they take back buses to the Stores after leaving the children at the school and again take the bus to the school in the evening, and they would be away from the school between 10.00 a.m. and 3.00 p.m. He states that himself and the other driver in the reference reside in Mandamarri itself. W.W. 3 states in his evidence that previously there used to be only one bus for taking the students to Mandamarri School and from 1-1-1980 the buses were increased to two and prior to August, 1979 P. Narsiah the driver of the bus was being paid the special allowance. (He mentions that Narsiah is again working as Driver of the bus since four months prior to his giving evidence, but that Narsiah is not being paid the special allowance now. But we are not concerned with the non-payment of any allowance to that Narsiah in the present reference). In cross-examination he admits that the timings of the general shift of the Company are from 7.00 a.m. to 12.00 noon and again from 2.30 p.m. to 5.30 p.m. but says that there is nothing in writing to show that the school bus drivers at Mandamarri should work during particular hours or during general shift. He says that the morning two trips of the bus taking the children to school would be over between 7.00 a.m. and 9.00 a.m. and in the return trips start at 4.30 p.m. and would be completed between 4.30 and 5.30 p.m. He also denies the suggestion that the bus would be kept at the shed between 9.30 a.m. and 4.30 p.m. and says that the drivers wait with the bus at the school itself. The witness further says that now and then when the class of the children would be over by 12.00 or 12.30 noon the buses should be available to take the children home even by 12.30 noon. W.W. 3 is working as Lorry Driver and says that he works for 8 hours a day and therefore he does not get any special allowance and special allowance is paid to car drivers and bus drivers who would be available for work beyond the hours of general shift.

7. The evidence of M.W. 1 clarifies the position and clinches the issue. He states that till November 1980 they were having only one school bus at Mandamarri for transporting the boys to the schools located at Mandamarri and Ramakrishnapuram and some of the students attending at Ramakrishnapuram school were residents of Mandamarri while some of the students of Ramakrishnapuram were attending Mandamarri School and Narsiah was the driver of that bus at that time and he was paid special allowance of Rs. 50.00 as he had to work right from early morning till evening in transporting the school children to the two schools and back

to their homes, that it used to be 6.30 p.m. by the time he kept the bus back at the Stores after leaving all the children at their places; that in November, 1980 they commissioned the second bus on which M. Swamy worked as Driver, and as Narsiah left the place they employed W.W. 1 as Driver of the Bus in February 1981, and thus these two Drivers came to work on two buses. His evidence is that one bus takes Mandamarri students to the school at Mandamari only while the other bus takes students of Ramakrishnapuram only to Ramakrishnapuram school and Mandamari School and the working hours of these Drivers are the working hours of the general shift i.e. 7.00 a.m. to 12.00 noon and again from 2.30 p.m. to 5.30 p.m. In his evidence he further states that the actual working hours are from 8.30 a.m. to 9.30 a.m. and again from 3.30 p.m. to 4.30 p.m. with an hour margin this side or that side for the Driver Swamy and for W.W. 1 who is working on Mandamari School bus the actual working hours are from 8.00 a.m. to 9.30 a.m. and again from 3.30 p.m. to 5.00 p.m. with a margin of 1/2 hour this side or that side. His evidence further is that during non-working hours both the buses are stationed at the Stores at Mandamari and these Drivers would not be engaged on any other duty and would not be having any other work from 10-30 a.m. till about 3.30 p.m. But yet they would remain at the Stores till 12.00 noon and again return to Stores by 2.30 p.m. as per the General Shift hours even according to this witness. The witness then refers to the Bellampalli School buses which were not under his control as the Officer stationed at Bellampalli would be different. He states that those Bellampalli buses used to bring school children to Mandamari for morning classes commencing at about 9.00 a.m. and leave Mandamarri along with the school children by about 4.00 p.m. and having regarding to the distance between Mandamarri and Bellampalli and the neighbouring colonies varying from 10 to 30 kilometres, those buses from Bellampalli used to be detained with those drivers at Mandamarri only during school hours and on account of that detention of the Drivers throughout the day at Mandamarri, those Bellampalli school bus drivers used to be paid Rs. 50.00 per month to meet their lunch expenses etc. In cross-examination this witness states that commissioning of second bus was for more convenience of the students and to lessen the inconvenience to the sole bus driver. He states that whenever there are functions in the school the drivers have to keep timing of those functions even if such timing would be beyond the factory timing but states that such functions may be one or two only in a year. He denies the suggestion that Mandamarri school bus drivers also remain at the school with the bus but asserts that they keep the vehicles at the Stores till they take them again for the return trip of the students. M.W. 1 was Incharge of Transport and material at Mandamari and would be knowing where Mandamarri School buses would be stationed during working hours of the school till they are required at the school for the return trips. He denies the suggestion that the two drivers of Mandamarri buses were also paid special allowance for some time. He states that there was no policy decision of the Company to pay the school bus drivers any special allowance and he cannot say how Narsiah when he was the only driver was paid that allowance.

8. Though it is argued for the claimants in a general manner that the drivers of the bus would not be having any fixed hours and they would have to be available after general shift hours also whenever there would be any special classes or functions at the school, there are no instances of such overstaying in any regular way and the evidence of M.W. 1 clearly is that such school functions would only be once or twice in a year and these drivers work during general shift hours only and not beyond those hours. The Driver is expected to work for 8 hours as admitted by W.W. 3 also and no special allowance can be claimed for that work. The general shift hours of the Company are from 7.00 a.m. to 12.00 noon and again from 2.30 p.m. to 5.30 p.m. The evidence of M.W. 1 is that school bus drivers at Mandamari work within these hours only. Exs. M4 and M5 communications obtained by the Management and produced through M.W. 2 show that at Ramagundam and Yellandu Divisions no special allowance are paid to those school bus drivers. If Bellampalli school bus drivers had to be paid some allowance there is justification for that as pointed out by M.W. 1. His evidence shows that those drivers had to bring the children from Bellampalli to Mandamari School and because of the distance between

Mandamarri and Bellampalli they station their buses at school itself and wait with their buses there keeping watch over them and take back the children after school hours and because of this distance to the school they work from morning till after 6.00 p.m. or so. Because they had to do extra work like that and would be forced to stay away from their place Bellampalli and forced to take their lunch at Mandamarri there would be the necessity for some special allowance to them. But the drivers of Mandamarri school bus reside in Mandamarri itself and take the children to Mandamarri school only and during lunch hour i.e. between 12.00 noon and 2.30 p.m. they go to their respective houses for their lunch. The Management no doubt says that the actual driving work would not consume more than two to three hours but that aspect would not be relevant in the context as admittedly these drivers are employed by the Collieries and they have to be available to the Management during the prescribed working hours i.e. general shift hours whether they would actually drive the bus or not. Making themselves available for driving during the General Shift hours would be sufficient to show that their services have to be available during the working hours. It is not as if the Management can engage a driver for one hour in the morning and send him away to engage himself in some other driving under some private party thereafter. Therefore though the Management tried to say that the actual driving is not for more than three hours, the fact remains that these bus drivers are employed by the Colliery for driving the school bus and they should be available during all the working hours of general shift. But a driver cannot force the management to employ him or utilise his services beyond the normal working hours nor can he forced the management to pay him some special allowance for discharging his duty during normal working hours. There is no reliable nor acceptable evidence to show that these Drivers usually or normally work beyond the general shift hours. If on one or two occasions in a year if they would have to wait at the school in the evening hour for some function, on that one or two occasions, if they happened to work beyond the 8 hours schedule, they may make some claim if they are entitled to do so. But certainly they cannot ask for special allowance of Rs. 50.00 per month because they would have to wait at the school beyond the scheduled hours on one or two occasions in a year when there would be some function in the school. The Management maintains that these drivers do not work beyond the general shift hours and their services are not required nor utilised beyond those hours. The evidence of M.W. 1 is to that effect. Because the school is situated in Mandamarri itself their working hours would not spread beyond the general shift hours. They are employed as drivers and they are paid their regular salary as drivers. When they are not doing any extra work and when they are not working as drivers beyond their general shift hours they cannot ask the Management to pay them some extra wages in the shape of special allowance, for discharging their duties during those hours. In this view it is not necessary to consider the other contention advanced on behalf of the Management regarding their financial difficulty or in capacity to meet any extra expenditure.

9. On a consideration I hold that the school bus drivers of Mandamarri are not entitled to any special allowance as claimed by them.

10. Now, turning to the first issue in the reference, though some questions were put to W.W. 2 in cross examination to suggest that there was no record with that Lorry Driver to show that there was no stock of explosives at Rourkela and therefore they had to wait till 9-8-1978, with a view to say that that delay also may have to be taken into consideration now, that is outside the purview of the dispute and in fact it does not arise for consideration in this matter. In his evidence W.W. 2 states that he might have gone about 25 times to Rourkela for bringing explosives and on previous occasions also there was delay in loading the lorry at Rourkela due to non-availability of explosives. M.W. 1 in cross examination had to say that they enquired at the I.D.L. Office at Hyderabad regarding the delay in supplying explosives to the lorry at Rourkela and they were replied that due to shortage of explosives at that time there was that delay. Therefore, the

questions put to W.W. 2 on this aspect by the Managements are more to confuse the issue and witness and they are besides the actual point for consideration in this case. On return journey the lorry left Rourkela on 10-8-1978 at 6.00 a.m. The evidence of the Driver W.W. 2 is that the loading of the lorry was over by 6.00 p.m. on 9th and they did not want to undertake the night journey on ghat road and so they left Rourkela on return journey on 10th morning and reached Mandamarri on 16-8-1978 evening. The normal journey period, according to the reply statement of the Management, is three days at the most but normally it is 2-1/2 days. It is pleaded that as the Drivers took 7 days for the return journey their wages and allowances for 4-1/2 days were deducted. The issue is whether this deduction is justified or not?

11. The above said deduction for 4-1/2 days was ordered by M.W. 1 as Deputy Controller of Stores. Some suggestions were made to him in cross examination that he was no competent to pass any such orders and it is the Divisional Superintendent that could take any such action. But M.W. 1 states that he could also take disciplinary action against the drivers to certain extent excepting the punishment of dismissal and the disciplinary powers were so delegated to him by the Management as he was the head of the Traffic Department. Though he did not bring any such order of delegation and though he says that T.A. Bills were actually approved by the Divisional Superintendent thereby intimating that with the knowledge of the Divisional Superintendent that disallowance for 4-1/2 days was effected, in view of his assertion that he was competent to take that action I am of the view at this stage that this point need not further be proved further and decided in view of my finding on merits in this case.

12. After the lorry was brought to Mandamarri on 16-8-78 evening M.W. 1 issued communication Ex. M1 dated 21-2-78 to these two drivers of the lorry. In this communication it was mentioned that these drivers were engaged on lorry to proceed on 30-7-1978 to Rourkela, that they reached Rourkela after four days though normally they should reach in 2-1/2 days to 3 days taking a run of 16 hours per day on an average speed of 40 kilometres and in the return they reached Mandamarri at 5.30 p.m. on 17-8-1978 though the explosives were delivered on 9-8-1978 at 6.00 p.m. i.e. after 8 days and they should have taken six days for both the ways including the repairs for one day and as such they would not be paid muster and D.A. for 4-1/2 days. In this communication the return date at Mandamarri was put as 17-8-78 but it must be a mistake as admittedly the lorry returned to Mandamarri on 16-8-1978 evening. In his evidence M.W. 1 states that when the lorry came he questioned the Drivers as to why they took so long and the Driver answered that they could not keep the time on account of rain and other things and that answer was not satisfactory to him as there would be fall of rain usually in the month of August and taking all circumstances in to consideration he served Ex. M1 intimating disallowing wages and D.A. for 4-1/2 days and in fixing that period of 4-1/2 days he took into consideration the submission of the driver that due to heavy rain on that day they had to unload the boxes of explosives and waited for 10 hours to restart and he also allowed another 24 hours time as grace period. But Ex. M1 does not at all reveal that any explanation was taken from the Drivers or on a consideration of that the disallowance was made for 4-1/2 days. Ex. M1 simply reads as if this disallowance was ordered straightaway as they took 11 days for that trip instead of six days including the period for repairs. It does not mention that the reasons given by the Drivers for the delay were considered. To this order of Ex. M1 the Drivers submitted their representation Ex. W1 dated 28-8-1978. In this they stated that, in rains they reached Rourkela on 3-8-1978 by 7.00 p.m. that the lorry was loaded on 9-8-1978 evening by 6 P.M. and by the time they covered the load with tarpaulin it took another two hours and as it was night time and was also heavily raining they waited at the I.D.L. Company gate itself that night and next morning they started and reached Jodhpur on 11-8-1978 and noticed that there was water in the body of the lorry; and with a view to see that the load does not get drenched and damaged they went to Singh Roady Builder Shop and purchased some wooden planks and unloaded the load and reloaded properly on the planks

and that process went on till 4.00 p.m. and in heavy rain they started from that place and were proceeding slowly and reached Jangareddygudem by 14-8-1978 morning. The representation thereafter says how the lorry was diverted back and forth and diverted to other routes as they could not cross the canal water overflowing across the road and as to how they could reach Mandamarri by 16-8-1978 evening only. They finally stated therein that they underwent so many difficulties and because of all that there was delay and therefore they should be paid the wages for the 4-1/2 days also. This representation was not at all considered by the Management. W.W. 2 gives evidence in support of the contents of this representation. He states that after reaching Jangareddygudem there was flood in Jeelaru and so they took the lorry to Eluru and tried to proceed on Eluru-Khammam road but that road was also blocked due to flood and they went back to Vijayawada and from there they went to Khammam and from Khammam they reached Torueru and there they found 50 lorries stationed and they were told that one lorry was stuck up in the vagu ahead and they could not proceed further and so they stayed on 14th night as well as on 15th at Tornerwand could leave that place on 16th morning only and reached Mandamarri on the same evening. He states that normal time required for the trip is 3-1/2 days and the delay occurred on this occasion due to heavy rains and floods on the way.

13. It is admitted that in the month of August normally the rains would be there. It is common knowledge that the lorries cannot be driven at usual speed during the rains and W.W. 2 also states like that. The distance between Mandamarri and Rourkela is about 1,600 kilometres according to W.W. 2 and about 1,500 kilometres according to M.W. 1. M.W. 1 admits that if there is any obstruction for the lorry on regular routes due to breach or due to flood, the Drivers can take diversion to another route. In this case the evidence of the Driver is that they had to take diversions at several places and stop the lorry till the road was clear and the delay occurred due to those reasons beyond their control. There is nothing with the Management to indicate that this version of the driver is not correct. May be the driver has to explain why there was delay and he has explained how the delay occurred. Why this explanation of the Driver should not be believed and what other information was available with the Management to show that the driver's explanations was false is not mentioned to me. As noticed, without calling for any explanation, straightaway Ex. M1 order was issued deducting wages and D.A. for 4-1/2 days. The drivers sent their representation thereupon. The Management did not at all consider that representation. It is no where mentioned by the Management except before this Tribunal that representation was considered but was found unacceptable. It is argued by the Management that the Drivers accepted that disallowance and that is why they claimed D.A. for 12-1/2 days only. Exs. M2 and M3 are the T.A. bills of the two drivers. In these bills it is mentioned that the lorry left Rourkela on 10-8-1978 and reached Mandamarri on 12-8-1978 at 5 a.m. for calculating the period of 12-1/2 days. These T.A. bills were passed by the Divisional Superintendent. Normally the date of arrival at Mandamarri should have been correctly shown as 16-8-1978 and it should have been mentioned on the bills that the claim for 4-1/2 days was not made or that it was disallowed in view of Ex. M1 order. But strangely the bills recommended by M.W. 1 and ultimately passed by the Divisional Superintendent show the return journey date as 12-8-1978 which is obviously incorrect. The submission on behalf of the Drivers is that because they were not allowed the 4-1/2 they had to restrict their claim like that for 12-1/2 days only. The Management tries to say that the drivers voluntarily accepted Ex. M1 and received the D.A. accordingly as per Exs. M2 and M3 bills and if they were coerced to restrict their claim for 12-1/2 days they would have so mentioned in the bills and also made a representation like that, but they kept quite and as an after thought and with a view to make extra gain they are now stating that they were unjustly disallowed and they should be paid now. The bills were presented by the drivers on 20-4-1979 i.e. after 8 months after the completion of the journey. That itself would indicate that they were not willing to forgo 4-1/2 days and ultimately that had to take for 12-1/2 days only as the Management was willing to pass to that extent only if they would show the dates of return to Mandamarri as 12-8-78. That the drivers were not agreeable to that cut is also evident from the fact that in the strike notice Ex. W2 issued by the

Drivers' Association, this claim for 4-1/2 days is one of the demands made by them. Therefore the Management cannot justifiably argue that the Drivers accepted Ex. M1 order and subsequently as an after-thought they raised this claim. But it is not necessary to consider the motives or reasoning of the parties prior to this reference to this Tribunal. Now the dispute referred is whether that disallowance for 4-1/2 days is justified and if not justified to what relief the drivers are now entitled to. Therefore it is not necessary to consider whether the drivers acquiesced earlier. They cannot be debarred from supporting their claim before this Tribunal when it is referred for adjudication on any principles of estoppel or otherwise. Because there was delay in raising this dispute by the union or in making reference to this Tribunal, it cannot be argued that the claim itself is a false one.

14. From the foregoing it can be seen that no show cause notice was there to the Drivers and no explanation was called from them for the delay in the u.p. Ex. M1 order appears to have been issued without considering any oral explanation even of the Drivers stating that due to rains and floods they had to take diversion and stop the lorry. When they were faced with Ex. M1 order, the Driver sent their representation on Ex. W1 but that was not at all considered by the Management. The Drivers are giving explanation for the delay. The reasons given for the delay appear to be convincing and acceptable. It may be that the Drivers should have intimated the Company by giving a telegram when their lorry was stopped due to submersion of the road. But no question was put to W.W. 2 in cross examination to find out why he could not send telegram to the Company. It might be possible that when they had to stop the lorry on the road there might not be any facility for them to give a telegram and the stopping of the lorry does not appear to be at a place having telegraphic facility. When they went back to Eluru they would be of the view that they were proceeding to Khammam and would go to Mandamari. Again when they went back to Vijayawada and then proceeded to Khammam still they would naturally be under the impression that they were straightaway going to Mandamari without any further obstruction. Therefore the obstructions for their journey were unexpected and at places where there would not be any facility for giving telegram. Of course, what explanation W.W. 2, if questioned, would have given for not sending a telegram cannot be known to us because no one tried to elicit that point from him in his examination. Unless the Management finds that the reasons given by the Drivers for the delay are unconvincing or false, they cannot disallow the usual wages they would otherwise be entitled to. Except the fact that there was delay, the Management was not having any other information with it to indicate that the explanation of the drivers or the evidence of W.W. 2 is false or unreliable. On the face of it the explanation given by W.W. 2 for the delay appears to be convincing as stated already. In these circumstances, I am of the view that the action of the Management in disallowing the wages and D.A. for 4-1/2 days to the Drivers is unjustified. The Management should pay the disallowed amounts to them. The issue of financial stringency of the Management cannot be put forth against this claim of the drivers because what they are claiming is not any special or extra amount but what they have to get in ordinary course of their employment as their usual wages.

15. In the result, I hold on Issue 1 of the reference that the Management of Singareni Collieries Company Limited is not justified in not paying the wages and D.A. to the drivers S/Shri M. Shanker and K. S. Mathews for 4-1/2 days towards their trip to Roukela and back in the month of August 1978. In consequence the Management is directed to pay these amounts to these Drivers forthwith.

16. On Issue No. 2 I find that the Management is justified in not paying the special allowance of Rs. 50.00 per month to S/Shri M. Swamy and Tukkaram the school bus drivers of Mandamari Division and consequently I hold that these Drivers are not entitled to any relief.

17. Award passed in these terms.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of this Tribunal this the 24th day of February, 1984.

Sd./- Illegible,
Industrial Tribunal.

Appendix of Evidence

Witnesses Examined	Witnesses Examined
For the Workman :	For the Management :
W.W. 1 T. Tukkaram	M.W. 1 M. Sreerama
W.W. 2 M. Shanker Goud	M.W. 2 K. Ramadas
W.W. 3 R. V. Prasada Rao	

Documents marked for the Workmen :

- Ex. W1—Explanation dt. 28-8-1978 submitted by Sarvasri M. Shanker Goud and K. S. Mathews.
- Ex. W2—Strike Notice dt. 9-7-1981 regarding the demands of Singareni Colliery Motor Drivers association of Mandamari Division.

Documents marked for the Management :

- Ex. M1—True copy of the letter No. MMS/40/4064, dt. 21-8-78 addressed by Dy. Cos., MM&RKP, S.C. Co. Ltd., to M. Shanker Goud and K. S. Mathew, informing that they will not be paid muster and D.A. for 4-1/2 days.
- Ex. M2—T.A. Bill of M. Shanker Goud.
- Ex. M3—T.A. Bill of K. S. Mathews.
- Ex. M4—Ref. No. GS/450T/5672, dt. 27/28-1-83, regarding additional allowance to Bus Drivers.
- Ex. M5—Ref. No. YS/114/2, dt. 2-2-83 regarding additional allowance to Bus Drivers.

[No. L-21012(9)/81-D. IV(B)]

M. SRINIVASA RAO, Presiding Officer.

S.O. 1301.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Calcutta in the industrial dispute between the employers in relation to the management of Chinakuri Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on the 26th March, 1984.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

Reference No. 53 of 1982

PARTIES :

Employers in relation to the management of Chinakuri Colliery of M/s. Eastern Coalfields Limited,

AND

Their Workmen.

PRESENT :

Mr. Justice M. P. Singh, Presiding Officer.

APPEARANCE :

On behalf of Employers—Mr. B. N. Lala, Advocate.

On behalf of Workmen—Mr. S. Roy, Advocate.

STATE : West Bengal.

INDUSTRY : Coal Mines.

AWARD

By Order No. L-19012(64)/82-D.IV(B) dated 29th July, 1982, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Agent Chinakuri Colliery, Messrs Eastern Coalfields Limited, Post Office Sunderchak, District Burdwar in superannuating Shri B. N. Ram, Watch and Ward of Chinakuri Colliery with effect from 3-3-1981 is justified? If not, to what relief the workman is entitled?"

2. The memorandum of settlement was filed by the parties before this Tribunal today (13-3-1984). Both sides pray that an award be passed in terms of the settlement as embodied in the compromise petition dated 13th March, 1984. I have perused the terms of settlement. The settlement is fair and proper. I accept it and pass award in terms of the settlement dated 13-3-1984. The compromise petition shall form part of this award and marked as Annexure "A".

This is my award.

Date, Calcutta,

the 13th March, 1984.

[No. I-19012(64)/82-D.IV(B)]

M. P. SINGH, Presiding Officer

ANNEXURE "A"

BEFORE THE HON'BLE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
CALCUTTA

Reference No. 53 of 1982

PARTIES :

Employers in relation to the management of Chinakuri Colliery of Eastern Coalfields Ltd.

AND

Their Workmen.

Joint Petition of compromise :

The humble petition of the parties herein concerned most respectfully sheweth :

1. That the above matter is fixed for hearing on 13-3-84.

2. That the parties concerned, in the meantime, mutually discussed the instant matter and have arrived at a settlement on the following terms :—

(i) That Sri B. N. Ram's the workman herein concerned, age will be recorded in the Company's Record as 25 (Twenty-five) years on 10-10-50 as has been furnished by his previous employers, the Army Settlement Directorate, and he will be superannuated on that basis when he reaches the age of 60 years.

(ii) That the concerned workman will be allowed to resume duty within 7 days from the date this settlement is accepted by the Hon'ble Tribunal and thereby becomes effective.

(iii) That the concerned workman will be paid a consolidated sum equivalent to fifty per cent of his basic, D.A., and F.D.A. for the working days during the period of his non-employment arising out of his superannuation on 3-3-1981 to the date, this settlement becomes effective and the aforesaid consolidated sum will be paid in three monthly instalments and save and except the aforesaid consolidated sum, the concerned workman shall have no claim whatsoever for any other back wages, whatsoever or any other benefits arising out of the instant matter.

(iv) That by this settlement the instant matter is fully and finally settled.

3. That both the parties pray that the Hon'ble Tribunal may be pleased to accept this settlement as fair and proper and may be further pleased to pass an award in terms of this settlement.

And for this act of kindness, both the parties, herein concerned, as in duty bound, shall ever pray.

Dated this the 13th day of March, 1984.

Sd/- (Illegible)

For and on behalf of the

Workman

Sd/- (Illegible)

For and on behalf of the
Employers

(SEAL)

S.O. 1302.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Chinakuri Colliery of M/s. Eastern Coalfields Ltd., P.O. Sunderchak (Burdwan) and their workmen, which was received by the Central Government on the 26th March, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, NO. 3, DHANBAD

Reference No. 60/82

PRESENT :

Shri J. N. Singh, Presiding Officer.

PARTIES :

Employers in relation to the management of Chinakuri Colliery of M/s. Eastern Coalfields Ltd., P.O. Sunderchak, Dist. Burdwan (West Bengal).

AND

Their Workman.

APPEARANCES :

For the Employers—Shri B. N. Lala, Advocate.

For the Workman—None.

INDUSTRY : Coal.

STATE : West Bengal.

AWARD

Dated, the 16th March, 1984

The Government of India in the Ministry of Labour in exercise of the powers conferred on them U/S. 10(1)(d) of the Industrial Disputes Act, 14 of 1947 has referred the dispute to this Tribunal for adjudication under Order No. L-19012(47)/82-D.IV(B) dated the 24th June, 1982.

SCHEDULE

"Whether the action of the Agent, Chinakuri Colliery of M/s. Eastern Coalfields Ltd., P.O. Sunderchak, Dist. Burdwan (West Bengal) in superannuating Shri Illshi Mian, Under Ground Loader, Chinakuri 1 and 2 Pits with effect from 1-7-1981 is justified? If not, to what relief is he entitled?"

2. From the records it will appear that from the very beginning the union was never interested in hearing of the case inspite of several notices issued to them. The case was fixed for hearing on 7-12-83 as a last chance at the request of the parties but on that date none appeared for the union and it was fixed on 5-1-84 for hearing. On 5-1-84 also none appeared for the union and as a last chance registered notice was issued to the union directing them to come ready for hearing of the case on 30-1-84 failing which the case would be heard ex parte. On 30-1-84 though the management was present and Sri D. K. Verma, Advocate for

the union was also present but as they were not ready the case was adjourned to 23-2-84 for hearing. On 23-2-84 also the parties were not ready and it was adjourned to 15-3-84, but though on that date the management was present with their witnesses but none appeared for the union.

3. The above facts clearly show that the union has got no interest nor they have now any dispute with the management.

4. In such circumstances a 'no dispute' award is passed.

J. N. SINGH, Presiding Officer

[No. L-19012(47)/82-D.IV(B)]

C. D. BHARDWAJ, Desk Officer

New Delhi, the 2nd April, 1984

S.O. 1303.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3 Dhanbad, in the industrial dispute between the employers in relation to the management of Amlabad Colliery of Bhowra Area of M/s. Bharat Coking Coal Ltd., and their workmen, which was received by the Central Government on the 28th March, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3,

DHANBAD

Reference No. 94/82

PRESENT :

Shri J. N. Singh, Presiding Officer.

PARTIES :

Employers in relation to the management of Amlabad Colliery of Bhowra Area of M/s. Bharat Coking Coal Ltd., P.O. Bhowra, Dist. Dhanbad.

AND

Their workman.

APPEARANCES :

For the Employers—Sri R. S. Murthy, Advocate.

For the Workman—Sri S. Pal, Advocate.

INDUSTRY : Coal.

STATE : Bihar

Dated, the 20th March, 1984

AWARD

The Govt. of India in the Ministry of Labour in exercise of the powers conferred on them U/S 10(1)(d) of the Industrial Disputes Act, 14 of 1947 has referred the dispute to this Tribunal for adjudication under Order No. L-24012 (15)/82-D.IV(B) dated the 13th August 1982.

SCHEDULE

"Whether the demand of the workman of Amlabad Colliery of Bhowra Area of M/s. Bharat Coking Coal Ltd., P.O. Bhowra, Dist. Dhanbad that Shri S. N. Das Gupta, Electrical Supervisor should be placed in Technical and Supervisory Grade A w.e.f. 18-8-1979 and paid as per NCWA is justified? If so, to what relief is the workman concerned entitled?"

2. The case of the workman is that he joined Amlabad Colliery in the year 1959 and was promoted as an Electrical Helper in 1966 and thereafter as an Electrician in 1967. It is further stated that he passed the Supervisory Competency Certificate in 1978 and in March, 1979 he was authorised to work in the post of Electrical Supervisor in No. 3 Pit

South Section and this was done in pursuance of meeting held between the D.G.M.S. and B.C.C.L. Officers regarding safety in mines as necessary steps were prescribed to be followed for safety of the mines.

3. The further case of the workman is that he was promoted to the post of Electrical Supervisor from 18-8-79 but he was not given the corresponding scale of Technical Grade A. According to him an Electrical Supervisor is entitled to Grade A but it was not given to him in spite of demand. It is also stated that one Sri N. D. Ghosal and Sri Rameshwar Ram who are working as Electrical Supervisor in the same colliery and performing the same nature of job have been given Grade A whereas the concerned workman has been given Grade C. It is also his case that in the meeting held on 1-2-82 it was decided by the management that Grade A could be given to all the persons designated as Electrical Supervisor but in spite of it the same Grade has not been given to him. His demand, therefore, is that he should be given Grade A with effect from 18-8-1979.

4. The defence of the management is that the concerned workman is not a workman within the definition of the Industrial Disputes Act as his pay is more than Rs. 500 per month and his main duty is of supervisory character. On facts it is stated that the concerned workman was previously employed as an Electrician in Grade V. In 1978 he obtained the Electrical Supervisory Certificate and thereafter he was promoted to Technical and Supervisory Grade C with effect from 18-9-79 and the said Grade is meant for Asstt. Foreman. It is also stated that as per recommendation of the Central Wage Board in Electrical and Mechanical Department the highest post is that of Foreman Incharge which is in Grade A. The next lower post is that of Foreman in Grade B and below him is Asstt. Foreman in Technical and Supervisory Grade C. Departmental employee such as Electricians etc. are promoted to Technical Grade C and they get subsequent promotions to Grade B and A after due selection by the D.P.C. subject to vacancy and qualification. There is also a cadre scheme of the management to this effect which has also been finalised by the J.B.C.C.I. The case of the management is that the concerned workman was formerly an Electrician and after he secured the Electrical Supervisory Certificate he was promoted to the post of Electrical Foreman in Grade C. It is also stated that there is no post of Electrical Supervisor and that the work of Electrical Supervisor can be performed even by an Asstt. Foreman and Electrician provided they possess the Electrical Supervisory Certificate. According to them simply because a workman is authorised to work as an Electrical Supervisor does not entitle him to Grade A. It is also stated that the concerned workman was never promoted to the post of Foreman Incharge which is in Technical Grade A and he cannot get such tripple promotion from Electrician to Grade A as per cadre scheme as also under recommendation of the Coal Wage Board. Regarding Sri Rameshwar Ram and Sri N. D. Ghosal it is stated that before giving them Grade A they were in Grade B and were working as Foreman and they are more experienced and the case of the concerned workman cannot be compared with them.

5. On the above grounds it is prayed that the Reference be decided in favour of the management.

6. The point for consideration is as to whether the demand of the workman that he should be placed in Technical and Supervisory Grade A w.e.f. 18-8-1979 is justified. If so, to what relief is he entitled.

7. Page 79 Vol. I of the Coal Wage Board recommendation would show the different categories of employees in Engineering Department. From this chart it will appear that Foreman Incharge is in Grade A and below him is Electrical Foreman in Grade B and below him is Asstt. Foreman in Grade C. It will appear that prior to this recommendation there were designations like Electrical Supervisor, Electrical Chief Foreman, Electrical Senior Foreman and Electrical Foreman Incharge. These designations were abolished and in their place a new designation known as Foreman Incharge was given and Foreman Incharge was placed in Technical Grade A. It is also in evidence of the management that an

Electrician is promoted to Asstt. Foreman in Grade C and thereafter they are given higher Grade B and A after due promotion by the D.P.C. WW-2 is Sri Mihir Kumar Banerjee an Electrician in Amlabad Colliery. He has admitted that there is one promotion rule for all the collieries of B.C.C. Ltd., including Amlabad Colliery. It is further stated by him that an Electrician of Grade VI is promoted in Grade C as Asstt. Foreman and thereafter an Asstt. Foreman is promoted to the post of Foreman and a Foreman is promoted to the post of Foreman Incharge. It is also admitted by him in the same paragraph i.e. paragraph 4 of his deposition that the work of Electrical Supervisor can be taken even from an Electrician or Asstt. Foreman. He has further stated that some Helpers and Technicians have also been made Electrical Supervisor. All the above evidence would thus clearly indicate that the work of Electrical Supervisor can be taken from an employee even of lower grade but that alone cannot entitle him to Grade A which is now meant for Foreman Incharge only. The authorisation to work as Electrical Supervisor is given under the Electricity Rules but the said authorisation can never amount to promotion in Grade A. Ext. M-3 is the promotion policy of the B.C.C.L. which would also show that the first promotion in supervisory grade is in Grade C as Asstt. Foreman then in Grade B as Foreman and lastly in Grade A as Foreman Incharge.

8. It is admitted that the concerned workman was originally working as an Electrician. This will also appear from the Office Order dated 16th July/18th August, 1979 issued by the General Manager, Bhowra Area. This Office Order would show that the concerned workman was an Electrician in Amlabad Colliery who had passed Electrical Supervisorship Examination and was placed in Technical Grade C with immediate effect. Thus this letter clearly indicate that from Electrician the concerned workman was promoted to Technical Grade C meant for Asstt. Foreman. On the basis of this document the concerned workman can never claim any higher grade i.e. Grade B or A. He wants double promotion simply on the ground that he is working as Electrical Supervisor. But as stated earlier the said work can be performed even by Electrician provided such authorisation is given by the Manager under Electricity or Mines Rules. There is no document to show that the concerned workman was ever promoted to the post of Foreman Incharge in Grade A.

9. The management has also filed Ext. M-2 which is the final seniority list of Electrical and Mechanical personnel who are in Technical Grade C. This will show that the concerned workman is in Sl. No. 126. It is also admitted by him in his evidence that in the seniority list he is in Sl. No. 126. Now if this workman is given Grade A then all the personnel in Grade C who are above him will have to be given Grade A which will be illegal and unjustified and it will disturb industrial peace in the Coal Mining Industry.

10. The main contention of the workman is that during the absence of the Engineer he is authorised to act as Engineer vide letters Exts. W-2, W-3, W-4, W-5 and W-6. But according to the management this authorisation has been given to him because he is the only Asstt. Foreman in the colliery premises but this does not show that he is more qualified than other Foremen or Foreman Incharge. This document thus do not help the workman. The union has also filed a letter Ext. W-1 dated 5-3-79 by which the Chief Engineer gave certain directions which were to be followed in order to avoid incident in the mines as has occurred in a mine in Assam. But this also not helpful for the workman.

11. Much stress has been laid on behalf of the workman on Ext. W-8 which is a photostat copy of the record notes of discussion between the management and Coal Mine Engineering Workers Association on 1-12-83. Item No. V of the demand was for Grade A to all the persons designated as Electrical Supervisor as per N.C.W.A.II. The decision is as follows:

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"it was made clear to the union that those who are holding the post as per statutory requirement will be paid Grade A".

The above decision does not indicate that all the persons designated as Electrical Supervisor will be given Grade A. This grade was to be given to only those who are holding the said post as per statutory requirement. Further Ext. W-8 is not a settlement at all and so the management cannot be held to be bound by the same. It is clear that the concerned workman was given Grade C by the management and he can claim any higher grade only if he is promoted to the said post by the management through the D.P.C. in case any vacancy arises. There are several persons in Grade C who are much senior to the concerned workman and unless their cases are considered first keeping in view the vacancy, the concerned workman cannot be given any promotion far less a double promotion in Grade A. Moreover promotions are to be given as per norms prescribed by the management. The workman has not even filed any paper to show that he was ever promoted to the post of Electrical Supervisor.

12. One of the contention of the management is that the concerned workman is not a workman as defined under the Industrial Disputes Act as his pay is more than Rs. 500/- per month and his work is mainly of supervisory character. It is now well settled that to decide the issue whether a person is a workman or not the question to be considered is as to what is the main duty of that person. Whether his duty is purely of supervisory character or it is incidental. Though the management has taken this plea but no evidence has been adduced on their behalf to show that the main duty of the concerned workman is that of supervisory character. The management has no doubt examined MW-1 who is Personnel Officer but he has not stated a word on this issue.

13. As against this the concerned workman in his very rejoinder to the written statement of the management has stated that the main duty of the concerned workman is not supervisory and that he is to perform many jobs manually and physically. A list of such jobs is given in paragraph 2 of his rejoinder. This has not been controverted on behalf of the management. The workman in his evidence has also stated that he has to make inspection of installation, check up earth leakage of underground wire, check main earthing, underground switch-gears, cable testing, insulation testing etc. and all these works are of manual nature.

14. Thus from the above evidence it cannot be said that the main duty of the workman is that of supervisory character and hence he is excluded from the definition of workman under the Industrial Disputes Act. I would like to mention that several cases of Electrical Supervisors came up for decisions before this Tribunal earlier and in all those cases it has been held by this Tribunal that an Electrical Supervisor is a workman under the I.D. Act. The duty of Electrical Supervisors in all the coal mines are the same. Till now there has not been any ruling of any of the High Courts or Supreme Court that an Electrical Supervisor working in coal mines is not workman.

15. In the circumstances it is held that the concerned workman is a workman as defined under the Industrial Disputes Act and the Reference, in the circumstances, is not bad on that score.

16. Considering the entire evidence on record, I hold that the demand of the workman that he should be placed in Technical and Supervisory Grade A with effect from 18-8-1979 is unjustified and in the circumstances he is not entitled to any relief.

17. The award is passed accordingly.

J. N. SINGH, Presiding Officer

[No. L-24012(15)/82-D. IV(B)]

C. D. BHARDWAJ, Desk Officer

New Delhi, the 28th March, 1984

S.O. 1304.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Joyrampur Colliery of Messrs Bharat Coking Coal Limited, Post Office Khas Jeenagora, District Dhanbad, and their workmen, which was received by the Central Government on the 24th March, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 20 of 1982

In the matter of an industrial dispute under S. 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management Joyrampur Colliery of Messrs Bharat Coking Coal Limited, Post Office Khas Jeenagora, District Dhanbad

AND

Their Workmen

APPEARANCES :

On behalf of the employers—Shri B. Joshi, Advocate,

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S. Union.

STATE : Bihar

INDUSTRY : Coal.

Dhanbad, 19th March, 1984

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication under Order No. L-20012(354)/81-D.III(A) dated the 18th February, 1982.

SCHEDULE

“Whether the demand of the workmen of Joyrampur colliery of Dodna Area of Messrs Bharat Coking Coal Limited, Post Office Khas Jeenagora, District Dhanbad that the management should treat Sarvasbhu Sibhu Kumhar, Rajendra Pandit, Lachu Pandit, Ramakhan Pandit, Ramchandra Pandit, Kedar Pandit, Manju Pandit, Kanti Pandit, Prabhakar Singh, Chintu Pandit, Jalo Pandit, Ramadhir Singh, Malkhan Singh, Ram Chander and Ram Sumer, Clay Cartridge makers as their workmen and they should be paid Category-I wages is justified? If so, to what relief are the said workmen entitled and from what date?”

The case of the concerned workmen is that they are working regularly in Joyrampur colliery of Messrs Bharat Coking Coal Limited as Clay Cartridge makers since 1972. Prior to May 1972 they were working in the colliery in different jobs as Hazri Mazdoors from time to time. The management of the colliery was taken over by the Central Government w.e.f. 17th October, 1971 and it was nationalised w.e.f. 1st May, 1972. Since then the management and control was vested in Messrs Bharat Coking Coal Limited. The name of the workmen were not recorded in the manpower list and as such their services were not taken over w.e.f. 17th October, 1971 when the management of the colliery was taken over by the Central Government. After the takeover, the Central Government directed the new management to increase the production of coal and thereafter the management introduced a system of raising coal by blasting instead of pick mining which was formerly in vogue. A large quantity of clay cartridges were required daily for blasting the coal seam

by explosives and for that purpose management engaged the concerned workmen as clay cartridge makers at the colliery. The concerned workmen accepted the said job of making clay cartridges and started working from the beginning of May, 1972. The concerned workmen are working within the colliery premises and all the materials and equipments are supplied by the management. They work under the direct control and supervision of the colliery administration. The clay cartridges are directly taken to the underground for blasting of coal seams from the place of preparation at the colliery site. The clay cartridges are used for the purpose of coal raising which is the main function of the colliery of Bharat Coking Coal Limited. The concerned workmen are required to pay time rate in Category I wages along with all other cash and fringe benefits but they are paid on piece rated basis @ Rs. 10 per thousand clay cartridges. The general mazdoor who performs all unskilled jobs are paid category I time-rate along with all other benefits, but the concerned workmen who are performing the essential services for the management by rendering services and creating goods for raising of coal are deprived from all those benefits and the management is discriminating against them. In many other collieries of Bharat Coking Coal Ltd. and also in the nearby colliery of the same area, clay cartridge makers are treated as departmental employees and are paid category I time rated wages besides other benefits of permanent workers but the concerned workmen have been denied all those benefits. One of the reasons for nationalisation of coal mining industries was to save poor workmen from the ruthless exploitations of the private owners but even after the take over, the concerned workmen are being exploited. The management have created 2 standards for the same and similar type of job. One set of workers are paid time rated wages along with other benefits and the other set of the concerned workmen are paid piece rated wages without any benefits. It is well settled that in coal industries the minimum rate of wages has been fixed for all employees but the concerned workmen have been denied the said minimum rate of wages and the said action of the management is arbitrary, illegal malafide and is an act of unfair labour practice. The demand of the concerned workmen is that they should be treated as departmental employees of the colliery w.e.f. 1st May, 1972 and be paid Category I time rated wages along with all other benefits of permanent employees.

The case of the management is that there is no relationship of employer and employee between the management and the concerned workmen and as such the reference is not maintainable. Out of the 15 concerned workmen named in the terms of reference only Sibhu Kumhar prepares and sells clay cartridges to the management. The other persons named in the terms of reference are in no way connected with the manufacture or preparation of clay cartridges and are not connected with the management either directly or indirectly. Sibhu Kumhar has opened a clay cartridge shop at his residence and he keeps and maintains a stock at his shop. The said Sibhu Kumhar has supplied clay cartridges from time to time. The Surveyor of the colliery goes to the shop of Sibhu Kumhar and purchases clay cartridges and fetches clay cartridges so purchased to the colliery through Mazdoors. The surveyor counts the total number of clay cartridges on the basis of which bills are prepared @ Rs. 10 per thousand of clay cartridges and payments are made on vouchers to Sibhu Kumhar. The relationship between Sibhu Kumhar and the management is that of sellers and purchaser and not that of workmen and employer. The concerned workmen were not working as Hazri Mazdoor prior to take over and nationalisation of the colliery. As none of them were workmen of the colliery, the records of the colliery did not contain the names of the concerned workmen. The management had introduced solid blasting in the year 1975 after obtaining approval from the office of the D.G.M.S. The number of clay cartridges supplied by Sibhu Kumhar was such that he alone could manufacture the entire lot with the assistance of one or two female members of his family. There was no need for him to employ any other person to assist him in the manufacture of clay cartridges. The management did not purchase clay cartridges from the concerned workmen except Sibhu Kumhar. The management purchases several kinds of materials from the local shops and local manufactures and it cannot be construed that the shop keepers and the manufacturers or their employees are workmen of the purchased. In the same way the management who purchases the clay cartridges from Sibhu Kumhar cannot be said to be the workmen of the management. The management has not set two

different sets of standards for the workmen. There is no question of depriving the concerned workmen of the benefits claimed by them and no discrimination has been made. The demand of the union to treat the concerned persons as the workmen and to pay them Category I wages is without any justification.

The point for consideration is as to whether the demand of the concerned workmen to treat them as clay cartridge workmen of the management and payment of category I wages to them is justified. If the point is considered in favour of the workmen then it has to be decided as to what relief they are entitled.

The workmen and the management have each examined one witness in support of their respective cases. The management has further produced some documents which are marked as Ext. M-1 to M-5. The workmen have not filed any document.

One of the concerned workmen Sibū Kumhar has examined himself as WW-1. He has stated that 15 concerned persons named in the Reference are preparing clay cartridges in four pits of Joyrampur colliery and they prepare the clay cartridges by the side of No. 3 Pit. He has further stated that they get the clay from the land of Bharat Coking Coal Limited and the implements and tools are also supplied to them for preparing clay cartridges by the management. He has said that the clay cartridges are taken inside the mines for blasting the coal seams and they are paid @ Rs. 10 per thousand clay cartridges. As alleged by the management, he accepts that bills are prepared in his name as a contractor and after drawing money they distribute it amongst the concerned persons. He has further stated that Lodna and Bagdigi are adjoining collieries within the same area No. X where other clay cartridge makers are on Company's permanent rolls and are paid on time rate basis. In his cross-examination he has stated that bills are prepared on Company's bill books and he receives payment in Company's vouchers. He has stated that after preparation of clay cartridges and its drying up they take the clay cartridges to their house and from there the Surveyor of the colliery takes the clay cartridges to the mines. It will thus appear from his evidences that WW-1 after preparing the clay cartridges takes it to his house and from there the Surveyor of the colliery takes the clay cartridges to the mines. Had he been the workman of the colliery he would not have taken the prepared clay cartridges to his house. The fact that WW-1 takes the clay cartridges to his house from where the Surveyor of the management takes the clay cartridges to the Mines shows that WW-1 was actually collecting the prepared clay cartridges at his residence and the management used to purchase the same from his residence. If the WW-1 had been the workmen of the colliery the clay cartridges would have been lifted to the mine from the site where he had prepared the clay cartridges. In his further cross-examination WW-1 has stated that accounting of clay cartridges is done by the Surveyor before he takes the delivery and that bills are prepared for the quantity received by him and then payment is made to the clay cartridge makers. The management has filed Ext. M-4 which is clay cartridge accounts Register and Ext. M-1, M-2 and M-3 which are vouchers for the years 1980 to 1982 respectively by which the clay cartridges are purchased. The clay cartridge accounts register, Ext. M-4 according to the evidence of WW-1, is maintained by the Surveyor Officer and Asstt. Manager of the colliery. The entries in Ext. M-4 shows that Sibū Kumhar supplied clay cartridges for blasting and that no other person supplied clay cartridges to the management of Joyrampur Colliery. Ext. M-1, M-2 and M-3 were prepared in the name of Sibū Kumhar only and these Exts. also show that the other persons named in the reference had not dealt with the management in the supply or preparation of the clay cartridges. The vouchers therefore, show the purchase of clay cartridges from Sibū Kumhar only and the vouchers will show that payment have been made to Sibū Kumhar only. WW-1 has stated that clay cartridges are purchased from outsiders and are not manufactured by the own workmen of the management. He has stated that Sibū Kumhar prepares clay cartridges at his residence. He has stated that the management do not supply any materials to Sibū Kumhar for the preparation of the clay cartridges and that the management does not supervise the work of the preparation of clay cartridges. He has stated that the management

have no control over the working or the persons who are working under Sibū Kumhar in preparation of clay cartridges. He has also stated that the management sends own men to bring the clay cartridges from the house of Sibū Kumhar and the payment for the clay cartridges is made @ Rs. 10 for one thousand clay cartridges. The evidence of WW-1 finds support from the evidence of WW-1 himself and the documents exhibited by the management. There is nothing to show on behalf of the concerned workmen that they are permanently employed by the management to prepare clay cartridges. Admittedly, their names are not recorded in any of their registers of the management to show that they are the employees of the management. On the contrary the documents filed on behalf of the management show that the concerned workmen were not the employees of the management and that except Sibū Kumhar no other persons had supplied clay cartridges to the management. The evidence will further show that even Sibū Kumhar was not the workman of the management but he was a supplier of clay cartridges at contractual rate of Rs. 10 per one thousand of clay cartridges. In this connection it may be said if persons other than Sibū Kumhar had supplied clay cartridges to the management, separate vouchers must have been prepared for them also and their names also must have been mentioned in clay cartridges accounts registers. WW-1 has stated that solid blasting started in Joyrampur Colliery in the year 1975 and 1976 and that clay cartridges were needed thereafter. He has stated since 1975 clay cartridges are being supplied by them and even since this system was started the bills were prepared in his name. Thus from the very evidence of WW-1 it will appear that clay cartridges were being supplied since after 1975. The case of the concerned workmen as stated in para 6 of their written statement that the management engaged them as clay cartridges makers and that they started working as such from the beginning of May, 1972 is falsified. It is apparent that the workmen were making false claim in the written statement which has not been supported in the evidence. It will also show that the concerned persons were not working as Hazri Mazdoors since prior to 1975.

Although it is claimed by the concerned workmen that the management used to supply them with the materials for the preparation of clay cartridges, there is no paper or supporting evidence to show that any materials and tools were supplied to the clay cartridge makers by the management. WW-1 has stated that for the purpose of making clay cartridges Kudali, Gaita and baskets are required but the workmen have not been able to show that any of these materials were supplied to them. Had these materials been supplied by the management there must have been some account of it with the management for the supply of those materials to the concerned workmen. But the workmen have not pointed out as to when and from what source those materials were supplied to them by the management. The management has denied that any materials were supplied to the workmen and it was for the workmen to prove the positive that materials being claimed to be used by them were supplied to them by the management.

The case of the concerned workmen in the written statement is that they used to prepare clay cartridges within the colliery premises (vide para 7 of the w.s.) but in examination-in-chief, after recall, WW-1 has stated that clay cartridges are manufactured near their residential accommodation in a separate shed although in his prior deposition in examination-in-chief he had stated that clay cartridges are prepared by the side of No. 3 Pit. Thus it appears that Sibū Kumhar was not preparing the clay cartridges near Pit No. 3 but was preparing near his residential accommodation which he was in occupation since long. It will go to show that the management do not provide land for the preparation of clay cartridges.

The case of the concerned workmen is that their work was supervised by the management and that their work was controlled by the management but in the evidence WW-1 has not asserted that the work was supervised by the management WW-1, on the other hand has stated that the management has no control or supervision over the preparation of the clay cartridges. No evidence has been led on behalf of the workmen to show that the management was supervising the work of preparation of the clay cartridges

or that the management had control over the persons working under Sibum Kumhar. In view of the above it has to be held that the management had neither supervision or control over the work of preparation of clay cartridges.

From the facts and evidence it will appear that only Sibum Kumhar was supplying clay cartridges to the management as, a supplier and that the other workmen named in the reference had no concern with the management. It will also appear that there was no relationship of employer and employee between the management and Sibum Kumhar and that there was the relationship of seller and purchaser between Sibum Kumhar and the management.

In view of the discussions made above, I hold that there is no relationship of employer and employee between the concerned workmen and the management and as such the demand of the concerned workmen to treat them as workmen of the management as clay cartridge makers and payment of Category I wages to them is not justified and that they are not entitled to any relief.

This is my Award.

[No. L-20012(354)/81-D.III(A)]

I. N. SINHA, Presiding Officer.

New Delhi, the 29th March, 1984

S.O. 1305.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employers in relation to the management of Oriental Engineering Company and Messrs Engineering Projects (India) Limited, contractors at Dugda Coal Washery, Post office Dugda, District Giridih and their workmen, which was received by the Central Government on the 26th March, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 58 of 1981

PARTIES :

Employers in relation to the Management of Oriental Engineering Company and Messrs Engineering Projects (India) Ltd., Contractors of Dugda Coal Washery, Post Office Dugda, Dist. Giridih.

AND

Their Workmen.

PRESENT :

Mr. Justice Manoranjan Prasad (Retd.) Presiding Officer.

APPEARANCES :

For the Employers.—Shri R. S. Murty, Advocate.
For the Workmen.—Shri D. Mukherjee Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal Washery.

Dhanbad, the 21st March, 1984

AWARD

The present reference arises out of Order No. L-20012-(160)/81-D.III(A) dated the 30th September, 1981, passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

“Whether the demands of the workmen engaged by the contractors in construction and erection work at the Dugda Coal Washery under the Contractors, the Oriental Engineering Company and Engineering Projects (India) Limited, Post Office Dugda, District Giridih, that they should be allowed wages at rates

higher than the prevailing ones, House Rent Allowance, leave with wages and annual bonus, are justified ? If so, to what relief, at what rates and with effect from what dates are the concerned workmen entitled ?”

2. The dispute has been settled out of Court. A memorandum of settlement dated 21-3-1984 has been filed in court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

MANORANJAN PRASAD, Presiding Officer
[No. L-20012(160)/81-D.III(A)]
A. V. S. SHARMA, Desk Officer.

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL No. 1, DHANBAD.

In the matter of Ref. 58 of 1981

PARTIES :

Employers in relation to the Management of Oriental Engineering Company and Messrs. Engineering Projects (India) Ltd., Contractors of Dugda Coal Washery Post Office Dugda Dist. Giridih.

AND

Their Workmen.

Joint petition on behalf of Employers and Workmen.

The above mentioned Employers and the workmen most respectfully beg to submit jointly as follows :—

- (1) That the employers as well as the workmen have jointly negotiated this matter and have settled the above dispute mutually, and implemented.
- (2) That in view of the above, there is no longer any dispute between the parties in regard to the matter covered by the above reference.

The parties therefore jointly pray that your lordship may be pleased to give an award that the parties have mutually settled the dispute and that there is no longer any dispute in regard to this matter.

Sd./- Illegible,

Secretary,
Bihar Colliery Kamgar
Union
Dhanbad
21-3-1984.

D. K. AGARWAL, Proprietor
Oriental Engineering
Company Contractor
At Dugda Coal Washery
RAL. S. MURTHY, Advocate
For Engineering Projects
(India Ltd.)
Contractor at Dugda Coal
Washery
Part of the award

New Delhi, the 5th April, 1984

S.O. 1306.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employers in relation to the management

of Central Coal Washeries, Organisation of M/s. Steel Authority of India Ltd., Post Office Saraidehla, District Dhanbad, and their workman, which was received by the Central Government on the 28th March, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 38 of 1982

PARTIES:

Employers in relation to the management of Central Coal Washeries Organisation of Messrs Steel Authority of India Limited, Post Office Saraidehla, District Dhanbad.

AND

Their Workmen.

PRESENT:

Mr. Justice Manoranjan Prasad (Retd.), Presiding Officer.

APPEARANCES:

For the Employers—Shri R. S. Murty, Advocate.

For the Workman—Shri D. Mukherjee, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, the 23rd March, 1984

AWARD

By order No. L-20012 (421)/81-D. III (A) dated, the 17th April, 1982, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Central Coal Washeries Organisation of Messrs Steel Authority of India Limited, Post Office Saraidehla (Dhanbad) in not promoting Shri A. P. Sengupta, Senior Assistant (ST) to the post of Confidential Assistant on the basis of seniority, as was done previously, and forcing him to appear in a test is justified? If not, to what relief is the workman concerned entitled?"

2. The case of the concerned workman, Sri A. P. Sengupta whose case has been sponsored by the Coal Washery Shramik Sangh, is that he was appointed as permanent Lower Division Clerk/Typist on 1-12-1964. Subsequently, after qualifying in the required shorthand and typewriting test, he was promoted to the post of Assistant (Steno-Typist) and thereafter he was promoted from the post of Assistant (Steno-Typist) to the post of Senior Assistant (Steno-Typist) on 7-12-1972. The management entered into a tripartite settlement with the Coal Washeries Workers' Union (INTUC) in the year 1971 for formulating promotion policy. As per the above settlement a promotion policy was formulated to the effect that for promotion from the post of Senior Assistant (Steno-Typist) to the post of Confidential Assistant, an employee should possess a minimum speed of 130 words per minute in shorthand and 40 words per minute in typewriting. Although the said settlement was entered into sometime in the year 1971, the above promotion policy was never followed since then and the Senior Assistants (Steno-Typist) were promoted to the post of Confidential Assistant on the basis of seniority only without holding any shorthand and typewriting speed test. In the year 1981, however, when the concerned workman's turn came for being promoted from the post of Senior Assistant (Steno-Typist) to the post of Confidential Assistant by the virtue of his seniority, he being the seniormost Senior Assistant (Steno-Typist) at that time in the Central Coal Washeries Organisation as a whole, the management, with a mala fide aim to punish him for affiliation to an union, other than the management's puppet union, namely, the Coal Washeries Worker's Union (INTUC), for the first time in August, 1981, enforced the terms of the aforesaid settlement by holding a written shorthand and typewriting

speed test, which was no longer kept in abeyance. The concerned workman along with some other Senior Assistants (Steno/Typist) boycotted the said written shorthand and typewriting speed test in protest against deviation of the management's promotion policy though some other Senior Assistants (Steno/Typist) appeared at the said test and as a result thereof Sri P. Haridas who was junior to the concerned workman and was next below him in the gradation list was promoted to the post of Confidential Assistant with effect from 26-8-81 and some other Senior Assistants (Steno/Typist) who were still more junior to the concerned workman were also subsequently promoted to the posts of Confidential Assistant with effect from 2-8-82 superseding the concerned workman. The contention of the concerned workman is that the management's above change of promotion policy in the year 1981 and suddenly insisting on the terms of settlement of the year 1971 by holding a written speed test in shorthand and typewriting instead of considering the seniority of Senior Assistants (Steno/Typist) for promotion to the post of Confidential Assistant, as was done in previous years was highly discriminatory and motivated and the action of the management in changing the promotion policy without giving any notice under Sec. 9A of the Industrial Disputes Act, 1947 was illegal and invalid. The demand of the concerned workman, therefore, is that he being the seniormost Senior Assistant (Steno/Typist) is entitled to be promoted as Confidential Assistant by sheer dint of his seniority without appearing at any shorthand and typewriting speed test with effect from 26-8-81 from which date his junior Sri P. Haridas has been promoted to the post of Confidential Assistant on the basis of shorthand and typewriting speed test held in the year 1981.

3. The case of the management, on the other hand, is that since the Central Coal Washeries Organisation had no promotion policy prior to 1971, a promotion policy regarding promotion of ministerial staff was formulated and incorporated in the year 1971 in a tripartite settlement arrived at in the course of a conciliation proceeding between the management and the Coal Washeries Workers' Union affiliated to the I. N. T. U. C. which is the recognised union in the establishment of the management. Promotion of Senior Assistant (Steno/Typist) to the posts of Confidential Assistants is also governed by the said settlement which is still in force. As per the aforesaid settlement the minimum qualifications and experience required for being promoted from the post of Senior Assistants (Steno/Typist) to the post of Confidential Assistants are as follows:

"Matriculate with 3 years experience in next below grade and must possess a speed of 130 words per minute in shorthand and 40 words per minute in typewriting."

Even after the aforesaid settlement in the year 1971, the provisions for determining the proficiency of the Senior Assistants (Steno/Typist) for promotion to the post of Confidential Assistant by holding speed test in shorthand and typewriting were not implemented and there was a deviation till the year 1976 upto which year selection for promotion was made by the Departmental Promotion Committee only by holding an interview.

Subsequently, the Secretary of the Coal Washeries Workers Union, which was a party to the aforesaid settlement of the year 1971, complained to the Asstt. Labour Commissioner (C) in his letter No. CW/WU/2/79-306 dated 19-1-79 that the management had violated the aforesaid settlement in the matter of selection of Senior Assistants (Steno/Typist) for promotion to the post of Confidential Assistants in as much as the said selection was being made without holding any shorthand and typewriting speed test as envisaged in the settlement. Thereafter an assurance was given by the management to the union that henceforth the provisions of the settlement in this respect would be strictly adhered to. Subsequently the Secretary of Dugda Branch and Patherdih Branch of the Coal Washeries Workers' Union also raised the same issue with the management and demanded that the provisions of the settlement in respect of holding of shorthand and typewriting speed test may be strictly complied with in the matter of promotion of Senior Assistants (Steno/Typist) to the post of Confidential Assistants and there should be no deviation. In view of the clear provisions of the aforesaid settlement in regard to the method of selection of Senior Assistants (Steno/Typist) for promotion to the post of Confidential Assistant and the stand

taken by the Coal Washeries Workers Union, which was a party to the settlement, the management was obliged to fall in line with the provisions of the aforesaid settlement, and, after January, 1979, selection of Senior Assistants (Steno/Typist) for promotion to the post of Confidential Assistant was made for the first time in the month of August, 1981, and, for this purpose, all the eligible Senior Assistants (Steno/Typist) including the concerned workman were called for test and interview. The concerned workman, however, did not appear at the said shorthand and typewriting test and interview besides few others; but some of the Senior Assistants (Steno/Typist) did appear at the said shorthand and typewriting speed test and interview and thereafter selection was made in accordance with the promotion policy incorporated in the aforesaid settlement and a panel of selected candidates was prepared and promotion were ordered from amongst the selected candidates as and when vacancy occurred and in fact, Sri P. Haridas, who was the first candidate in the selection panel was immediately promoted and others in the selection panel were subsequently. The concerned workman, who chose not to appear at the said test and interview held in August 1981 can, therefore, have no claim for promotion to the post of Confidential Assistant on the sheer basis of his seniority. In fact, some other Senior Assistants (Steno/Typist) who also chose not to appear at the test and interview held in the year 1981 have not raised any dispute. The contention of this management, therefore, is that the terms of the aforesaid tripartite settlement which was reached in the course of conciliation proceeding are still in force and binding on all the workman employed in the establishment of the management, and from 1981 onwards promotions are being made from the posts of Senior Assistants (Steno/Typist) to that of Confidential Assistants in accordance with the said settlement which envisages holding of shorthand and typewriting speed test and the management cannot be compelled to violate the said tripartite settlement in order to accommodate a single workman like the concerned workman and to promote him to the post of Confidential Assistant on the basis of his mere seniority without his appearing at any shorthand and typewriting speed test. According to the management, in the fact and circumstances of the case, section 9-A of the Industrial Disputes Act, 1947 is also not at all attracted and in consequence the question of the management giving any notice to the concerned workman under the said section did not arise. The prayer of the management, therefore, is that the demand of the workman should be rejected and the reference should be decided in favour of the management.

4. Two witnesses have been examined on behalf of the management. The concerned workman is the sole witness examined on his behalf. Certain documents have been exhibited on either side which clinch the issue and by oral evidence those documentary have either been proved or explained.

5. It is the common case of the parties that there was tripartite settlement dated 6-9-1971 (Ext. M-1) arrived at in the course of conciliation proceeding before the Regional Labour Commissioner (C), Dhanbad between the management and the workman represented by the Coal Washeries Workers' Union (INTUC) regarding promotion policy of the different categories of workmen of Central Coal Washeries Organisation. The last clause of the settlement stated that it shall remain in force at least for a period of two years on the expiry of which a review would be made if considered necessary. But since admittedly no notice in writing of an intention to terminate the settlement has been given by either party to the settlement to the other after the expiry of said period of two years it still continue to hold good and binding on the parties by virtue of section 19(2) of the Industrial Disputes Act, 1947, and by virtue of section 18(3)(d) of the Act binds not only the workmen represented by the Coal Washeries Workers' Union (INTUC) but all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently became employed in that establishment or part. Therefore, the said settlement is binding not only on the concerned workman but is also binding on the sponsoring union, namely, the Coal Washery Shramik Sangh. This position is not disputed by either side.

6. Annexure 'B' to the aforesaid settlement lays down the minimum educational qualification and experience prescribed for different posts for departmental promotions, and for Confidential Assistant the minimum qualification prescribed is

matriculate with three years experience in next below grade and a speed of 130 words per minute in shorthand and 40 words per minute in typewriting. Clause VII of the settlement further lays down that for promotion from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistant all vacancies to the post of Confidential Assistant will be filled in by promotion of eligible departmental candidates, and Senior Assistants (Steno/Typist) who have put in three years service in the grade will be considered for promotion to the post of Confidential Assistant and the method of selection will be based on seniority (40 per cent marks), service records (30 per cent marks) and interview (30 per cent marks). The employees found suitable for promotion will be graded on the basis of seniority. The qualifying marks for being placed in the panel will be 45% in the aggregate. There is also a clause No. 5 in the settlement to the effect that the panel drawn by the Departmental Promotion Committee shall be valid for a period of one year. The promotion, as laid down in the settlement, therefore, clearly envisages the holding of a shorthand and typewriting test of the eligible Senior Assistant (Steno/Typist) for being considered for promotion to the post of Confidential Assistant in order to judge whether they possess a minimum speed of 130 words per minute in shorthand and 40 words per minute in typewriting which the minimum qualification prescribed for being considered for promotion to the post of Confidential Assistant.

7. But, as is evident from the photostat copy (Ext. M-16) of the Departmental Promotion Committee's proceedings held on 10-9-76, when in that year an occasion arose for promoting some Senior Assistants (Steno/Typist) to the post of Confidential Assistant, no shorthand and typewriting tests were admittedly held and the cases of S/Shri S. R. Chakraborty, B. Viswakarma, K. Unnikrishnan, T. Ramachandranan, A. P. Sengupta (the concerned workman), P. Haridas and C. K. George, Senior Assistant (Steno/Typist) whose names stood in the aforesaid serial order in the seniority list of Senior Assistants (Steno/Typist) (vide Exts. W-2, W-4 and M-2), were considered only on the basis of seniority, service records and interview, and since all of them had secured 45 per cent marks in the aggregate they were all placed on the panel in the aforesaid serial order for being promoted from the post of Senior Assistants (Steno/Typist) to the post of Confidential Assistants. The panel was dated 10-9-76 (Ext. M-16) and under clause 5 of the aforesaid settlement dated 6-9-71 (Ext. M-1) it was to remain valid for a period of one year. Accordingly when occasion for promoting Senior Assistants (Steno/Typist) to the post of Confidential Assistants arose from time to time, Sri S. R. Chakraborty, who was the seniormost in the panel, was promoted from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistant by order dated 27/29-1-1976 (Ext. M-17) and again S/Shri B. Viswakarma and K. Unnikrishnan were promoted from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistants by order dated 18-1-77 (Ext. M-18) and Sri T. Ramachandranan was promoted from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistant by order dated 21-5-77 (Ext. M-19). Thereafter the concerned workman Sri A. P. Sengupta became the seniormost Senior Assistant (Steno/Typist) with Sri P. Haridas next below him and Sri C. K. George next below Sri P. Haridas in the aforesaid panel dated 10-9-76, but unfortunately for them no further vacancy occurred in the post of Confidential Assistant within a period of one year from the date of drawing of the said panel with the result that the said panel became invalid under clause 5 of the aforesaid settlement dated 6-9-71 (Ext. M-1), and, therefore, no further promotion to the post of Confidential Assistant could be made from that panel.

8. Thereafter it appears that the Secretary of the Coal Washeries Workers' Union which was a party to the aforesaid tripartite settlement dated 6-9-71 (Ext. M-1) wrote a letter dated 19-1-79 (Ext. M-3) to the Asstt. Labour Commissioner (C), Dhanbad complaining that the management of the Central Coal Washeries Organisation had violated the terms of the settlement dated 6-9-71 (Ext. M-1) in promoting some of the Senior Assistants (Steno/Typist) to the post of Confidential Assistant without holding any speed test in shorthand and typewriting to ascertain if they possessed speed of 130 words per minute in shorthand and 40 words per minute in typewriting. A similar complaint was also made by the Branch Secretary of the Coal Washeries Workers' Union in his letter dated 6-7-81 (Ext. M-4) addressed to the

General Manager of the Central Coal Washeries Organisation. In both the aforesaid letters it was emphasised that promotion from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistant should be strictly made as per promotion policy envisaged in the aforesaid tripartite settlement dated 16-9-71 (Ext. M-1) by holding interview and test in shorthand and typewriting to ascertain if the candidate to be promoted possesses the requisite minimum speed of 130 words per minute in shorthand and 40 words per minute in typewriting. Thereafter there is a letter dated 5/12-5-1980 (Ext. W-3) written by the Dy. Chief Personnel Manager, Central Coal Washeries Organisation to the Secretary, Central Coal Washeries Employees Union in which the Dy. Chief Personnel Manager, while conceding that there had been some cases of promotions in the past which were not in accordance with the tripartite settlement dated 6-9-71 (Ext. M-1), gave a categorical assurance that there would be no deviation from aforesaid promotion policy in future. Thereafter when after 1976 some vacancies occurred in the post of Confidential Assistants in the year 1981, which were required to be filled in by promotions of Senior Assistants (Steno/Typist), the management issued a notice dated 10-8-81 (Ext. M-5) to the concerned workman Sri A. P. Sengupta and several other Senior Assistants (Steno/Typist) who were juniors to the concerned workman in the gradation list of Senior Assistant (Steno/Typist), namely, S/Shri P. Haridas, C. K. George, P. N. N. Nair, E. I. K. Masood, S. K. Mukherjee, S. Dutta, B. A. Rao, K. K. Paul, A. K. Jha, M. K. Bakshi, M. R. Alam and N. P. Sinha whose names stood in the gradation list of Senior Assistants (Steno/Typist) Vide Ext. M-2) to appear at a test and interview before the Departmental Promotion Committee on 20-8-1981 at 11 a.m. when they were also required to bring their shorthand note book and pencil. The said date of test and interview was subsequently changed to 24-8-81 at 11 a.m. by another notice dated 17-8-81 (Ext. M-6).

9. The concerned workman Sri A. P. Sengupta, however, boycotted the said written shorthand and typewriting test held on 24-8-81 on the ground that it was being held in deviation of the previous practice when promotion from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistant used to be made on the basis of only seniority, service records and interview without holding any such written shorthand and typewriting test to judge the speed of the candidate, and he also lodged written protest dated 14-8-81 (Ext. W-6) to that effect with the General Manager of the Central Coal Washeries Organisation. Some other Senior Assistants (Steno/Typist), namely S/Shri P. N. N. Nair, S. Dutta, M. K. Bakshi, M. R. Alam and M. P. Sinha who were also noticed to appear at the said shorthand and typewriting speed test similarly failed to appear at the said test. Other Senior Assistants (Steno/Typist) however, appeared at the said test.

10. As a result of the aforesaid shorthand and typewriting speed test held on 24-8-81, Sri P. Haridas, who was just next below the concerned workman Sri A. P. Sengupta in the gradation list of Senior Assistants (Steno/Typist), was promoted to the post of Confidential Assistant by order dated 26-8-81 (Ext. M-11). Thereafter the concerned workman Sri A. P. Sengupta, Senior Assistant (Steno/Typist) raised the present dispute which has been referred to this Tribunal by order dated 17-4-82 of the Central Government in the Ministry of Labour and the dispute which has been referred is whether the action of the management in not promoting Sri A. P. Sengupta, Senior Assistant (Steno/Typist) to the post of Confidential Assistant on the basis of seniority, as was done previously, and forcing him to appear in a test is justified. During the pendency of the present reference on the basis of the aforesaid shorthand and typewriting speed test held on 24-8-81 some more Senior Assistants (Steno/Typist) who were all juniors to Sri A. P. Sengupta, namely, S/Shri C. K. George, E. I. K. Masood, S. K. Mukherjee and K. K. Paul have also been promoted to the post of Confidential Assistant by order dated 2-8-82 (Ext. M-13). The result is that Sri A. P. Sengupta who was the seniormost amongst the Senior Assistants (Steno/Typist) in the gradation list has not been promoted to the post of Confidential Assistant as he boycotted the shorthand and typewriting test held on 24-8-81 on the ground that he should be promoted to the post of Confidential Assistant by sheer dint of his seniority without being asked to appear at any shorthand and typewriting speed test as had been the practice prior to 1976

though S/Shri P. Haridas, C. K. George, E. I. K. Masood, S. K. Mukherjee and K. K. Paul who were juniors to him in the gradation list of Senior Assistants (Steno/Typist) but who had appeared at the said test held on 24-8-81 and had qualified have been promoted to the post of Confidential Assistants. This has resulted in some further consequential effects also as Sri P. Haridas, Confidential Assistant has been allowed by order dated 4-9-82 (Ext. M-12) to have notional seniority and notional fixation of pay in the scale of Confidential Assistant with effect from 15-7-79 and financial benefit with effect from 1-12-80 since the said benefit had been extended to his juniors promoted later in accordance with another tripartite settlement dated 14-7-1984 (Ext. M-10) arrived at between the management and the workmen represented by the Coal Washeries Workers' Union (I.N.T.U.C.) in course of another conciliation proceeding and by yet another order dated 20/23-2-1984 (Ext. W-5) he has been allowed officiating as Private Secretary with effect from 3-6-80 to 15-2-81 i.e. for the period he had been acting as Private Secretary to the General Manager and he has been promoted on regular basis to the post of Private Secretary with effect from 16-2-81. According to the evidence of the concerned workman Sri A. P. Sengupta (WW-1) though he has been given the scale of Confidential Assistant from 19-4-1983, the date when he completed ten years of his service as Senior Assistant (Steno/Typist), under a service link promotion scheme incorporated in yet another tripartite settlement dated 17-6-78 (Ext. M-8) arrived at between the management and the workmen represented by the Coal Washeries Workers' Union (INTUC) in course of yet another conciliation proceeding, that does not give him any right to the said post of Confidential Assistant nor entitles him to any further promotion to the post of Private Secretary. Thus, the concerned workman Sri A. P. Sengupta has made his position anomalous by not appearing at the shorthand and typewriting speed test held on 24-8-81; but for that he is himself to be blamed. It is true that even after the tripartite settlement dated 6-9-71 (Ext. M-1) which envisages holding of shorthand and typewriting speed test of Senior Assistants (Steno/Typist) for judging whether they possess a speed of 130 words per minute in shorthand and 40 words per minute in typewriting which was the minimum qualification prescribed in the said settlement for promotion to the post of Confidential Assistant, the management had not held any such test between 1971 and 1976. But that could not have given the management a license to violate the terms of the settlement for all time to come and when the aforesaid violation of the terms of the settlement by the management was taken up by the Secretary of the Coal Washeries Workers' Union, which was a party to the settlement, by his letter dated 19-1-79 (Ext. M-3) in the form of a complaint made to the Asstt. Labour Commissioner (C), Dhanbad, the management could not but have conceded to follow the terms of the settlement regarding holding of shorthand and typewriting speed test in future otherwise it would have made itself open to criminal prosecution under section 29 of the Industrial Disputes Act, 1947. In the circumstance, the concerned workman was ill advised not to appear at the shorthand and typewriting speed test held on 24-8-81 which has placed him in very disadvantageous position. In the facts and circumstances of the case as discussed above it must, however, be held that the action of the management in not promoting the concerned workman Sri A. P. Sengupta, Senior Assistant (Steno/Typist) to the post of Confidential Assistant on the basis of seniority alone and asking him to appear in shorthand and typewriting speed test in the year 1981 to show that he possesses the minimum speed of 130 words per minute in shorthand and 40 words per minute in typewriting before he could be promoted to the post of Confidential Assistant, is justified, and the concerned workman is not entitled to any relief.

11. I will next refer to some decisions which though not quite relevant to the point at issue have been cited at the bar.

12. Sri D. Mukherjee appearing on behalf of the workman has referred to a decision of Gujarat High Court reported at page 8 of 46 F. I. R. where it has been held that when the name of a successful candidate is included in a panel for promotion after written test and viva voce his name should not be deleted subsequently without first affording opportunity of hearing etc. because deletion caste evil consequences. This has been cited by Sri D. Mukherjee in support of his contention that when the name of the concerned workman Sri A. P. Sengupta was once included in the panel prepared by the Departmental Promotion Committee on 10-9-76 (Ext. M-16) the same

panel should have held good till all included in the said panel including the concerned workman Sri A. P. Sengupta and his two juniors Sri P. Haridas and Sri C. K. George were promoted from the post of Senior Assistant (Steno/Typist) to that of Confidential Assistant and there should have been no occasion for holding a fresh shorthand and typewriting test on 24-8-81 and asking them to appear at the said test. But this argument overlooks to take note of clause 5 of the tripartite settlement dated 6-9-71 (Ext. M-1) which lays down that the panel drawn by the Departmental Promotion Committee shall be valid for a period of one year only. In this circumstance there is no merit in the aforesaid contention of Sri D. Mukherjee.

13. Sri D. Mukherjee appearing for the concerned workman has also referred to the case of Workmen of M/S. Williamson Magor and Co. Ltd. Vs. M/S. Williamson Magor & Co. Ltd. and others (AIR 1982 SC.78). In that case there was no norm and/or standard guiding promotion and/or upgradation of the employee, and the management gave promotion to junior members superseding the rightful claim of a number of senior employees. In these circumstances it was held that even if promotion may not be a condition of service in a private company and promotion may be function of the management, it may be recognised that there may be occasions where the Tribunal may have to cancel the promotion made by the management where it felt that the persons superseded have been so superseded on account of legal mala fide and victimisation. With the aforesaid observation the promoted of the seniors superseding the rightful claim of the senior employees was set aside and it was directed that the management in consultation with the workmen or their representatives and under the direction, supervision and control of the Labour Commissioner of the region, shall frame norms/rules fixing quota for the grades and for promotion/upgradation of its workmen within two months from the date of the receipt of a copy of the judgement by the Labour Commissioner and the upgradation and/or promotion shall be made by the management in terms of the norms/rules so framed. The aforesaid decision of the Supreme Court has got no application to the facts of the present case as in the present case the promotion policy of the Central Coal Washeries Organisation was very clearly laid down in the tripartite settlement dated 6-9-71 (Ext. M-1) which still holds good and is binding on all concerned and there is no question of legal mala fide and victimisation in enforcing the terms thereon.

14. Sri D. Mukherjee has also argued that since after the tripartite settlement dated 6-9-1971 (Ext. M-1) no shorthand and typewriting speed test was held by the management between 1971 and 1976 as envisaged in the settlement, and promotions were made from the posts of Senior Assistants (Steno/Typist) to the post of Confidential Assistants only on the basis of seniority, service records and interview, all such promotions made between 1971 and 1976 should be quashed and all such promotees should now be asked to sit at a fresh shorthand and typewriting speed test along with the concerned workman Sri A. P. Sengupta and then promotions to the posts of Confidential Assistants should be made from amongst the successful candidates. To do so would, instead of creating industrial peace, which is the avowed object of the Industrial Disputes Act, 1947, create only chaos and confusion which would also be against the principle of natural justice as those who were promoted from the posts of Senior Assistants (Steno/Typist) to the post of Confidential Assistants between 1971 and 1976 are not at all parties to the present reference and they have not been given any opportunity to be heard.

15. A point has also been taken by the concerned workman in his written statement that the action of the management in changing the promotion policy without giving any notice under Section 9A of the Industrial Disputes Act, 1947 was illegal and invalid. Here, however, there was no question of the management changing the promotion policy. In fact, the promotion policy was already laid down in the tripartite settlement dated 6-9-1971 (Ext. M-1) and it was a question of only implementing it in the year 1981 from which there was some deviation on the part of the management between 1971 and 1976. Therefore, there is no merit in this point also raised on behalf of the concerned workman.

16. In the result, it is held that the action of the management in not promoting the concerned workman Sri A. P. Sengupta, Senior Assistant (Steno/Typist) to the post of Confidential Assistant on the basis of his sheer seniority in

the year 1981, as had been done previously between 1971 and 1976, and asking him to appear in shorthand and typewriting speed test as envisaged in the tripartite settlement dated 6-9-71 (Ext. M-1) to judge whether he possesses the required minimum speed of 130 words per minute in shorthand and 40 words per minute in type writing before he could be promoted from the post of Senior Assistant (Steno/Typist) to the post of Confidential Assistant, is justified, and, the concerned workman is not entitled to any relief. The reference is answered and the award is made accordingly. But in the circumstance of the case there will no order as to cost.

MANORANJAN PRASAD, Presiding Officer.

[No. L-20012(421)/81.D III(A)]

S.O. 1307.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employers in relation to the management of Barora Colliery of Area No. 1 of M/s. Bharat Coking Coal Limited, Post Office Nawagarh, District Dhanbad and their workmen, which was received by the Central Government on the 29th March, 1984.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 11 of 1982

PARTIES :

Employers in relation to the management of Barora Colliery of Area No. 1 of Messrs Bharat Coking Coal Limited, Post Office Nawagarh, District Dhanbad.

AND

Their workmen.

PRESENT :

Mr. Justice Manoranjan Prasad (Retd.) Presiding Officer

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workman—None.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 24th March, 1984

AWARD

The Central Government in the Ministry of Labour has, by order No. L-20012(222)/81-D.IIIA. dated, the 30th January, 1982, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :

"Whether the demand of the workmen of Barora Colliery of Area No. 1 of Messrs Bharat Coking Coal Limited, Post Office Nawagarh, District Dhanbad that the quarry workers should be paid wages for making hand holes is justified? If so, to what relief are the workmen entitled?"

2. The case of the concerned workmen is that they have been working as permanent quarry workers since long in Barora Colliery of M/s. Bharat Coking Coal Ltd., but, besides their usual duties of quarry workers as per Wage Board recommendations, they have also been performing the job of making hand-holes and packing of blasting materials since 1976. The workers of Muraidih, Benedih, Damoda and other collieries of M/s. Bharat Coking Coal Ltd. are getting Rs. 3.60 for making each hand-hole and 0.25 paise for packing of blasting materials in each hand-hole. The concerned workmen, therefore, also demanded from the management Rs. 3.60 for making each hand-hole and 0.25 paise for packing of blasting material in each hand-hole at

par with the other workers of M/s. Bharat Coking Coal working in Muraidhi, Benedih, Damoda and other collieries of M/s. Bharat Coking Coal Ltd., but without any effect. This led to a conciliation proceeding which ended in failure leading to the making of the present reference. The demand of the concerned workmen, therefore, is that they should be paid wages at the rate of Rs. 3.60 for making each hand-hole and 0.25 paise for packing of blasting material in each hand-hole with effect from 1976.

3. The case of the management, on the other hand, is that the concerned workmen, who are quarry workers, perform their own jobs in Barora Colliery and they are not required to do any additional job of making hand-holes and there is also no job called packing of blasting material. Barora colliery has open cast workings operated by machines. The overburden consists of loose earth and stones and stone is removed after blasting and coal is also obtained by blasting. For the purpose of blasting, short holes are drilled by means of compressed air hammer drills and electric drills and the management has provided six compressed air hammer drills and five electric drills, which are quite sufficient both for removal of overburden and coal. The management has also installed two compressors out of which one operates from a fixed place and the other is a mobile one. The management has also provide sufficient number of drillers on time rated scales for drilling the short holes with the help of drilling machines and whenever it is felt necessary some of the piece rated workers are engaged as time rated drillers and they are paid time rated wages. Quarry workers get their wages on the basis of quantity of work performed by them and they are piece rated workers. If any quarry worker drills any shot hole either with the help of drill machine or with the help of crow-bar he is paid his wages as driller on that day. It is, however, only in the case of manually operated workmen that the short holes are drilled by crow-bar on piece rated basis and the quarry workers get piece rated wages for drilling short holes. At Barora open cast, drilling is done mechanically and not manually and these the quarry workers are not engaged in drilling short holes by crow-bars and hence making of any hand hole as mentioned in the written statement of the concerned workmen has got no meaning. The demand of the concerned workmen is, therefore, illegal and unjustified and they are not entitled to any relief.

4. Regard being had to the frame of the reference, the burden of proof laid on the concerned workmen and they were to lead evidence first. But inspite of several adjournments granted for the purpose, which have been enumerated in detail in order dated 20-3-1984 and which need not be repeated here, the workmen failed to lead any evidence in this case with the result that on 20-3-84 it was taken up ex parte when Sri B. Joshi, Advocate, appearing on behalf of the workmen submitted that regard being had to the frame of the reference the burden of proof was on the workmen and since the workmen had led no evidence in this case the management did not propose to lead any evidence and the case may be disposed of on burden of proof. Accordingly the award was reserved.

5. I agree with the aforesaid submission of Sri B. Joshi, Advocate, appearing on behalf of the management that regard being had to the frame of the reference the burden of proof was on the workmen to establish that their demand that the quarry workers of Barora Colliery should be paid wages for making hand holes is justified and they having led no evidence on the point they must be held to have failed to prove that their aforesaid demand is justified. That being so it is held that the workmen have failed to prove that their demand that the quarry workers of Barora Colliery should be paid wages for making hand-holes is justified. Consequently the quarry workers are held entitled to no relief. The reference is answered and the award is made accordingly. But in the circumstance of the case there will be no order as to cost.

MANORANIAN PRASAD, Presiding Officer

[No. L-20012(222)/81-D.III(A)]

S.O. 1308.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Lohapati Colliery in Mohuda Area II of M/s. Bharat Coking Coal Ltd., Post Office Mohuda, District Dhanbad, and their workmen, which was received by the Central Government on the 27th March, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 68 of 1982

In the matter of an industrial dispute under S. 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Lohapati Colliery in Mohuda Area No. II of Messrs Bharat Coking Coal Limited, Post Office Mohuda, District Dhanbad and their workmen

APPEARANCES :

On behalf of the employers—Shri B. Joshi, Advocate.

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S. Union.

STATE : Bihar

INDUSTRY : Coal.

Dhanbad, 23rd March, 1984

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication under Order No. L-20012(76)/82-D.III(A) dated the 9th July, 1982.

SCHEDULE

"Whether the demand of the workmen of Lohapati Colliery in Mohuda Area No. II of Messrs Bharat Coking Coal Limited, Post Office Mohuda District Dhanbad that Sarvashri Ishwar Pandit, Mohan Pandit, Gangadhar Napti, Trichuwan Ram and Tirku Mahato, Clay Cartridge Makers should be regularised on the rolls of the Colliery is justified? If so, to what relief are the workmen concerned entitled and from what date?"

The case of the five workmen named in the schedule of the Order of reference is that they along with two other workmen namely Sukar Pandit and Hira Pandit are employed by the management of Lohapati Colliery in Mohuda Area No. II of Messrs. Bharat Coking Coal Limited for preparing clay cartridges for use in production of coal from the mine. Their job by its very nature are permanent and have been listed in time rated Category I wages besides other benefits available to all permanent employees, but the concerned workmen have been deprived from all such benefits. The concerned workmen are preparing clay cartridges on piece rate basis within the premises of the concerned colliery and all materials and implements are supplied to them by the management. They perform the duties under supervision and control of the colliery administration and they have to prepare required number of clay cartridges according to requirement of the management for blasting of coal from the mine everyday. Since 1973 they were paid piece rate basis @Rs. 7.50 per thousand of clay cartridges. The Union of the workmen raised dispute with the colliery management and claimed for regularisation of the workmen and thereafter the management suo-motu enhanced the piece rate to Rs. 10.30 per thousand clay cartridge, but the management refused to regularise them in service which was being claimed by them. In some of the collieries of the Bharat Coking Coal Ltd. management are paying clay cartridge mazzdoors in time rate Category I rate of wages along with all other benefits. But the concerned workmen are being paid piece rated wages without other benefits of permanent workmen. When the concerned workmen failed to receive due payment as regular employees, the union of the workmen represented the matter before the General Manager, Mohuda

Area but their claim were rejected. The union represented the case of the concerned workmen before the Asstt. Labour Commissioner (Central) Dhanbad who took up the matter and held conciliation proceedings but the matter ended in failure. The Asstt. Labour Commissioner (Central), Dhanbad submitted his report of failure of conciliation to the Central Government and thereafter the present Reference was made. The case of the concerned workmen further is that they are preparing the clay cartridges on piece rate basis and it is falsely asserted by the management that the clay cartridges are purchased from the concerned workmen. The clay cartridges are not available for sale on the surface and the same is prepared by the concerned workmen which are direct result of the services rendered by them for the benefit of the management. The concerned workmen are engaged in a job which is classified in the job description in the Coal Mining Industry and schedule time rate has been prescribed for the same. The concerned workmen claim to be regularised in the job of clay cartridge makers in Category I time rated wages with consequential benefits w.e.f. 1-5-73 with back wages in the permanent establishment of the Colliery.

The case of the management is that the Reference is not legally maintainable as the concerned persons are not the workmen of Mine. At Lohapati colliery solid blasting was introduced in the year 1975 and thereafter it became necessary to purchase explosives, detonators and clay cartridges for the purpose of blasting of coal. Clay cartridges are manufactured locally by the local people and the same is prepared cylindrical in shape of 1" diameter and 6" in length. The local people prepare the clay cartridges out of clay obtained from different places on the surface and sell the same to the different collieries. The colliery management purchases the clay cartridges from such persons which is sufficiently available on the surface. The management purchases several materials from the local people and local market and it will be absurd to suggest that all such people from whom several materials are purchased from the local people should be treated as workmen of Messrs. Bharat Coking Coal Limited. As in the case of explosives and detonators manufacture in factories, the clay cartridges prepared locally are purchased by the management. The persons engaged in preparing clay cartridges are self-employed persons and generally the ladies, children and handicapped persons engage themselves in preparing clay cartridges in the villages in their spare hour. The management does not want to close the business of local people by preparing clay cartridges itself through its own employees. The management is at liberty to purchase clay cartridges from any person and those persons cannot claim a right for their employment. There is no relationship of employer and employee between the management and the concerned persons and so there is no basis for the demand of regularisation in the job of clay cartridge makers. None of the concerned persons is employed by the management in the job of production and they cannot claim to be treated as employees of the colliery. The concerned persons do not prepare clay cartridges under the control and supervision of the colliery manager or any other officer. Ishwar Pandit sold clay cartridges to the management at different prices at different times. He started supplying clay cartridges to the management after 1975 and not before that. According to the management the demand of the union is unreasonable and that the concerned persons are not entitled to any relief.

The point for consideration is as to whether the demand of the concerned workmen for regularisation on the rolls of the colliery as clay cartridges makers is justified and whether they are entitled for the payment of Category I wages.

The workmen have examined one witness Shri Ishwar Pandit who is one of the concerned workmen. The management have examined two witnesses, namely, Shri J. N. Das who is working as Surveyor and Shri S. N. Choubey who is working as Asstt. Manager in Lohapati Colliery. Besides that the concerned workmen have exhibited two letters Ext. W-1 and W-2 and seven pages of clay cartridge Register marked Ext. W-3 to W-3/6. The management on the other hand has produced stemming Register of Lohapati Colliery Ext. M-1 and Photostat copies of vouchers and slips regarding supply of clay cartridges to Lohapati Colliery marked Ext. M-2.

WW-1 has stated that in Lohapati Colliery production of coal is going on in three different mines, namely, Kandra Incline, No.2 Incline and No. 4C new Incline. He has stated that in Kandra Incline three of the concerned workmen namely S/Shri Gaugadhar Napi, Bhikhu Mahato and Tribhuwan Ram are working as clay cartridge manufacturer and that in No. 2 Incline three of the concerned workmen, namely, S/Shri Ishwar Pandit, Mohan Pandit and Sukar Pandit are working as Clay cartridge manufacturers and in 4C new incline the remaining concerned workman Hiru Pandit alias Khuru Pandit is engaged as clay cartridge manufacturers. He has accepted that the concerned workmen started manufacturing clay cartridges in Lohapati Colliery since January, 1975 and thus it appears that the workmen have given up their claim as stated in para-7 of their written statement that they were preparing clay cartridges since 1973. He has further stated that he along with other concerned workmen manufacture the clay cartridges near respective inclines and that they get tools and implements for preparing clay cartridges from M/s. B.C.C.Ltd. He has stated that the clay cartridges are accounted by the colliery staff at the time of preparation and after it is dried up they collect the clay cartridges and put it on the trolley at the respective incline mouth and that surpluses clay cartridges are stored in a room provided by the BCCL within the colliery premises. He has further stated that at the time of counting number of clay cartridges the same is entered in the register datewise and the registers are periodically signed by the Asstt. Manager and Manager. Photostat copies of seven pages of said register signed by the Asstt. Manager and Manager of Lohapati Colliery have been filed on behalf of the workmen and the same is marked Ext. W-3 to W3/6. He has further stated about the rate of payment for preparation of the clay cartridges. He has stated that in the beginning they were paid @Rs. 7.50 per thousand clay cartridges but from July, 1980 the rate was increased to Rs. 10.30P. per thousand clay cartridges. He has stated that they do not get any other benefits from the colliery except the rate payment of clay cartridges. In his cross-examination he has stated that bills were separately prepared by the management for each worker and payment to each one is made through voucher and that the overman incharge used to maintain a register of accounts for the supply of clay cartridges by them. He has denied that the clay cartridges are prepared by them in their own house and that they carry the clay cartridges to the colliery for being sold. The workmen have produced no paper to show that they were preparing the clay cartridges as employees of the colliery. On the contrary Ext. W-3 series which are photostat copies of clay cartridge registers of the colliery, Stemming register of Lohapati Colliery Ext. M-1, photostat copies of vouchers and slips regarding supply of clay cartridges of Lohapati Colliery marked Ext. M-2 indicate that the management used to purchase clay cartridges from the concerned persons along with some other persons. These documents do not show that the concerned workmen were the employees of the management engaged for preparing clay cartridges. The fact stated by WW-1 that the concerned workmen are permanent employees of Lohapati Colliery is denied by the management's witnesses.

MW-1 Shri J. N. Das who is working as a Surveyor in Lohapati Colliery has stated that the clay cartridges used in blasting is purchased locally and it is not prepared by the colliery management. He has exhibited a Stemming Register Ext. M-1 bearing the signature of the Mines Manager which shows that clay cartridges were purchased from the concerned workmen. The vouchers and slips Ext. M-2 series also indicate that clay cartridges used to be purchased from the concerned workmen by the management at the rate admitted by the parties. It will appear from the evidence of WW-1 also that the payment for the clay cartridges used to be made on the basis of vouchers prepared on the basis of bills. MW-1 has stated that no materials for the preparation of clay cartridges are supplied to the concerned persons and that their work is neither supervised nor controlled by the management. If actually any material for the preparation of clay cartridges had been supplied by the management, the management must have maintained an account to show as to what materials were supplied to which of the concerned persons. The concerned workmen do not claim that there is any register to show that the materials supplied to them are entered by the management. It will thus appear

that there is no evidence to support that any material for the preparation of clay cartridges was supplied to the concerned persons by the management.

It will appear from the evidence of MW-1 that the clay cartridges were prepared outside the colliery premises. He has stated that although the management has underground right for mining coal in ten thousand bighas but they have only surface right over only 20 (twenty) bighas of land, and the rest of the surface land was not within their surface right from which the concerned persons might have been taking the clay for the preparation of clay cartridges. It cannot, therefore, be said that the management was providing land to the concerned persons for the preparation of clay cartridges. MW-2 has also stated that the management purchases clay cartridges from outside and that the workers are not engaged as employees to prepare clay cartridges. The evidence of MW-2 and Ext. M-1 will show that all the concerned workmen supply clay cartridges to the management. He has stated that the concerned workmen prepare clay cartridges in their own premises and that the management does not supply any material for the manufacture of clay cartridges. He has also denied that the work of preparation of clay cartridges is supervised by the management. He has stated that the management has no concern with the workmen except that the management purchases clay cartridges from them. There does not appear to be any reason to disbelieve management's witnesses No. 1 and 2 as their evidence appears to have a support from the documents adduced in this case.

It was submitted on behalf of the concerned workmen that clay cartridges mazdoors is in the schedule of the coal wage board recommendation in Volume II P-42 Item No. 26. This shows that it is the schedule job of time rated category-I (unskilled). Clay cartridge makers are also shown in Volume I at page-70 in Group I of Wage Board Recommendation as piece rated workers. It is submitted that the clay cartridge makers should be put in Cat. I either as piece rated or time rated with all the benefits of a permanent workman and that the concerned workmen who are supplying clay cartridges should be regularised in Cat. I of the job. It will appear that there are in any other categories also mentioned in the Wage Board recommendations. The management purchases those materials from elsewhere and as such all those persons from whom those materials are purchased cannot be treated as employees of the management only because the management purchases those materials from them. The concerned workmen were supplying clay cartridges at specified rate. It will also appear from Ext. M-1 that all the concerned workmen were not regularly supplying the clay cartridges and some of them were occasional suppliers of clay cartridges. In view of the matter the concerned workmen cannot claim to be regularised as permanent workmen of the management.

Thus considering the entire evidence on record, I hold that there is no relationship of employer and employee between the concerned workmen and the management and as such the demand of the concerned workmen of Lohanati Colliery for regularization on the rolls of the colliery as Clay cartridge makers is not justified and that they are not entitled to the payment of Category I wages and as such they are not entitled to any relief.

This is my Award.

T. N. SINHA, Presiding Officer

[No. L-20012(76)/82-D.III(A)]

A.V.S. SARMA, Desk Officer

New Delhi, the 29th March, 1984

S.O. 1309—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Chandigarh in the industrial dispute between the employers in relation to the State Bank of Patiala and their workmen, which was received by the Central Government on the 26th March, 1981.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER
CENTRAL GOVT. INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I. D. 148/83 (N. Delhi); 66 of 1983 CHD.

PARTIES :

Employers in the relation to the Management of State Bank of Patiala, Patiala.

AND

Their Workman.

Sh. Subhash Chand Bansal

APPEARANCES :

For the Employers.—Sarvashri B. K. Gupta and Sri S. S. ANAND.

For the Workman.—Sarvashri B. L. Sharma and Apararar Singh.

AWARD

Chandigarh, the 21st March, 1984

The Central Govt. Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act; vide their Order No. L-12012/121/81-D.II(A), dated the 10th of May 1982 read with S. O. No. S-11025(2)/83 dated the 8th of June, 1983 referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of State Bank of Patiala, H. O. The Mall, Patiala, in initiating disciplinary proceedings by way of holding departmental enquiry against Shri Subhash Chand Bansal, Clerk, Kasturba Gandhi Marg, New Delhi, for using unfair means in the Associate Examination Part-I for which he was debarred for 5 years by the said institute, is legal and justified? If not, to what relief the workman is entitled?"

AND

"Whether the action of the management of State Bank of Patiala, H. O. The Mall, Patiala in ordering stoppage of 3 graded increments, two with future effect and one without future effect, of Shri Subhash Chand Bansal, Clerk, Kasturba Gandhi Marg, Branch, New Delhi is legal and justified? If not, to what relief the workman is entitled?"

2. To trace of a short history of the matter the Respondent Bank is a member of Indian Institute of Bankers' who annually hold an Associate Examination of the clerical staff employed in the various member Banks for consideration of their promotion prospects and claims. The petitioner/workman was employed at the Kasturba Gandhi Marg New Delhi branch of the Respd. Bank in November, 1975 and was taking the Associate Examination Part-I which was being held at Kendriya Vidyalaya (Central School) Faridabad. During one of his "Papers" on 14-11-1975 he was alleged to have been found using unfair means and some incriminating documents were also recovered from him by the Invigilator, Shri Marwe who immediately reported the matter to the Supdt. of the Centre, Shri D. M. Mathur, who, for the obvious reason, reprimanded the petitioner. However, the petitioner denied the charge and disowned the documents alleged to have been recovered from him; it resulted in a sort of altercation and exchange of hot words. The petitioner was then stated to have assaulted the Invigilating staff and tried to escape but he was apprehended by the Teaching Staff of the School and taken to the office of the Principal where he was alleged to have regretted his conduct in writing. Meanwhile the Centre Supdt. Mr. D. M. Mathur reported the incident to the Institute of Bankers' who, on completion of their enquiry, disqualified the petitioner for 5 years and intimated his employer i.e. the Respd. State Bank of Patiala.

3. The Respd. Bank then initiated departmental proceedings for the alleged mis-conduct of the petitioner in the aforesaid examination. The Enquiry Officer returned his

findings against the petitioner and thus a sentence of topage of 3 graded increments, two with future effect and one without future effect, was imposed on the petitioner, feeling aggrieved against which he approached his Union and raised an Industrial dispute which could not be settled amicably despite the intervention of the A.L.C(C). during the Conciliation Proceedings, and hence the reference

4. According to the petitioner/workman he was wrongly accused and condemned on the charge of cheating in the Examination whereas the entire episode was based on some misunderstanding, if not down right concoction. For the obvious reasons he denied having mis-conducted himself in any manner whatsoever during the Examination and refused the insinuation of mis-behaviour towards any of the Invigilating staff. Similarly it was denied that there was any occasion for him to express regrets. As a matter of fact, he pleaded that the Bankers' Institute acted in a high handed and arbitrary fashion in disqualifying him from their future Examinations for as long a period as 5 years. In the same sequence he questioned the vires and validity of the departmental proceedings culminating in the finding of guilt by the Enquiry Officer and passing of sentence by the Bank management. He contended that the Enquiry was not fairly conducted and otherwise also the Bank was not competent to take cognizance of his alleged misconduct during the examination held under the supervision of an entirely alien and independent Agency.

5. He, therefore, prayed for quashing of the departmental proceedings and the consequent sentence passed on him by the Respd. Bank Management.

6. Resisting the petitioner's claim on all counts, the Respd. Bank propounded that the petitioner had appeared in the Examination held by the Bankers Institute as their sponsored candidate and since he was alleged to have brought a bad name to them by indulging in the use of unfair means, therefore, they were competent to enquire into his conduct and punish him accordingly. For the obvious reason they asserted the propriety, fairness and validity of the departmental proceedings in which the petitioner had participated with all zest and zeal, it was contended that his guilty was duly established in the said proceedings by unimpeachable evidence, and that his appeal against the order of sentence had also been dismissed by the Appellate Authority.

7. Respective pleadings of the parties were found to be fully covered under the terms of reference. However at their request issue No. (1) was taken up as a preliminary one since it was felt that in case it was decided in favour of the petitioner the Order of sentence would automatically fall to the ground. Therefore, the parties were heard on its legal aspect; but vide my detailed order 31-10-1983, the petitioner's contention was repelled and the Management's view point was sustained that they were competent to initiate the departmental-disciplinary proceedings to look into his conduct at the time of the Institute's Examination.

8. Scope of the instant adjudication, thus, narrows down to issue No. (2) formulated in the terms of reference.

9. In support of his case the petitioner examined himself and filed a certified copy of his reply to the show cause notice alongwith a letter allegedly written by the Chief Vigilance Officer of the Respd. Bank to one D. C. Rajpal, P.E.T. of the Central School Faridabad with regard to letter's complaint against the Bank's Presenting Officer Sh. R. K. Modi.

10. On the other hand, the Management produced the disciplinary authority Sh. Sharda Singh M.W.1. and the Enquiry Officer Sh. Y. N. Mathur M.W. 2. besides the Original Enquiry proceedings' file.

11. I have carefully scrutinised the entire material on records and heard the parties. In his attempt to assail the propriety and validity of the Order of sentence the Id. Rep. of the petitioner submitted that the ocular testimony of the witnesses examined in the domestic proceedings was of

highly contradictory and sub-standard nature whereas the approach of the Enquiry Officer was lopsided since he did not properly appreciate the statements of the defence witnesses, who were the most natural and dis-interested persons whereas the departmental officials, were highly biased against him. In the same sequence he questioned the non-production of the Centre Supdt. Sh. D. M. Mathur who was supposed to be the pivot of the whole drama. It was contended that the Enquiry Officer should have taken in custody the original Answer sheet of the petitioner and compared it with the alleged contraband recovered from him. So much so that even it was not clear as to whether any particular question could be answered from the aforesaid material.

12. At the risk of repetition it may be pointed out that according to him there were glaring contradictions in the statements of D. R. Marwa P.W. 1, M. L. Aggarwal P.W. 2, R. K. Paul P.W. 3 and J. L. Dua P.W. 4, whereas the candidate witnesses P.W.5. Vijayendra and P.W.8 Dalip Singh did not positively support the alleged recovery of the incriminatory material from the petitioner obviously because at that time they were supposed to be busy in attempting their own "papers". Moreover the incident of assault on the supervisory staff was alleged to have occurred outside the Examination Hall where neither of them could possibly be present. Elaborating his grouse he contended that P.W.6. R. K. Jain, Principal of the Central School, would have us believe that after his apprehension by the School staff and students, the petitioner was brought to his office where he admonished and advised him to confess his guilt, and that was how that the Regret letters Exb. R. 1&R.2 were obtained from him under duress.

13. Inspite of seeming attraction the submissions raised on behalf of the petitioner filed to carry conviction with me. The pertinent point is that a Tribunal concerned with the reference proceedings under Section 10 of the Act cannot be equated with an Appellate Court sitting over a domestic enquiry. If a given set of circumstances admits of two equally reasonable interpretations, one concluded by the Enquiry Officer would normally be acceptable to the Tribunal, and if a finding of fact is based on some cogent evidence, usually it is not disturbed unless it is found to be suffering from some taint of perversity. In short, it is sufficient that there is some believable, and rational evidence to form the nexus. Of course; if it appears to be a case of "No-evidence" then the Tribunal would not shirk its responsibility in discarding the Enquiry report.

14. In other words it may be put like this that the strict standard of proof, usually expected of the prosecution to establish a criminal charge, is not called for. It is besides the point that of late there has been a reconsideration of ethos even in that Forum because it is felt that there can be no perfection in this imperfect world and insistence on fool proof evidence is fraught with the risk of fool proof concoction as held in the case of *Inder Singh Vs. State (Delhi Adm.) A.I.R. 1978 SC 1091 to 1093*. Similarly no serious note is taken of the discrepancies and contradictions in the ocular testimony of the witnesses unless they strike at the very root of the case because with the passage of time human memory is prone to fade resulting in variance in the details.

15. In the matter in hand, the depositions of all the witnesses examined on behalf of department were consistent, at least on the issue that some incriminating and objectionable documents were recovered from the possession and control of the petitioner by the Invigilator D. R. Marwa, P.W. 1. His statement finds an echo of credibility in the testimony of his colleagues P.W. 2. Aggarwal P.W. 3. R. K. Paul and P.W. 4, J. L. Dua. They also supported Marwa's contention of picking a part of the contraband from a place close to the seat of the petitioner where, he could exercise exclusive control on them. It may not be out of place to record here that none of these persons, including Marwa, had any animus against the petitioner to involve him in an episode of the instant nature. Moreover, P.W. 5. Vijendra and P.W.8. Dalip Singh were also "Examinees" in the same Hall and were attracted towards the petitioner's effort of snatching his Answer sheet from Marwa. In my considered opinion, the

very conduct of the petitioner in trying to snatch the Answer-sheet from the immediate supervisor was indicative of his guilty conscience. And to crown it all, he then tried to have a trial of physical strength with the Invigilating staff and ran away from the Examination Hall to which both these witnesses further testified. There is no plausible explanation for this type of unusual behaviour of an Examinee even if he were being falsely accused of cheating.

16. The cup petitioner's miseries comes to the brim when we look into the copy on his own application dated 15-11-1975 addressed to the Chief Secretary Institution of Bankers filed by him vide Exb. W.5. in the domestic proceedings. A bare reading there of would leave no manner of doubt regarding his involvement into the incident. Strangely enough no explanation was projected in that application as to why the entire Invigilating Staff had ganged up against him or as to why he had to run away from the Examination Hall when suspected and accused of using unfair means. His entreaties even to the Principal of the Central School, who was absolutely an unconcerned person with the Banking Industry as well as the Examination itself, rather confirm his guilt. It may also be worthwhile to note that the said Principal Sh. R. K. Jain had appeared in the Domestic Enquiry and deposed against the petitioner, without being confronted in Cross-examination with any such suggestion which could detract his credibility, and it hardly requires any emphasis that he also fully proved the validity and truthfulness of the petitioner's confessional statements Exb. R.1. and R. 2.

17. I, therefore, have every reason to believe that the statements of the above said witness, taken as a whole, were sufficient to form the nexus of the findings of the Enquiry Officer. It is an entirely different thing that there were certain deviations and discrepancies in their statements pertaining to the details of the recovery of the incriminating documents and the manner of altercation between them and the petitioner regarding his version of the incident; but as already indicated they deserved to be ignored as of no consequence since they do not shake up the basic structure of the case.

18. As regards the evidence of the defence witnessed I need not strain myself much in view of the limited scope of my powers. After all, it is primarily a question of oath against oath and they have been disbelieved by the Enquiry Officer who had the added advantage of watching their demeanour. Moreover none of the prosecution witnesses belonged to the Respd. Bank whereas the defence witnesses could be motivated in twisting the truth in favour of one of their Co-examinee.

19. On the point of non-production of the Centre' Supdt. Sh. D. N. Mathur suffice to say that even though he would have been a relevant witness to throw some light on the incident yet his absence from the proceedings is not going to cause any dent in the first hand deposition of Marwa who was the Principal character of the drama; rather it was he who had apprehended the petitioner. It was contended that the Enquiry Officer should have called D. M. Mathur on his own even if the Respd. Bank was not interested, but I think that if he had such strong feelings on the subject, even the petitioner could make an application before the Enquiry Officer to summon Sh. Mathur and examine him.

20. In the same sequence a reference would also be pertinent to the confessional statements Exb. R-1; R-2 of the petitioner in which he had expressed his regrets for the behaviour during the conduct of the examination. In his Cross-examination the petitioner admitted the faithfulness of both these documents but tried to wriggle out on the pretext that they were procured from him under duress. Fallacy of the explanation was readily exposed by the management with the submission that at least the School Principal R. K. Jain, to whom Exb. R. 2. was addressed by the petitioner, could not have any possible motive or occasion to exert or exercise any pressure on him moreover no such suggestion was floated to Shri Jain during the Cross-examination when he appeared as P.W.6. in the domestic Enquiry.

21. On behalf of the petitioner it was complained that he was not given a proper opportunity to defend himself as his prayer to engage a professional lawyer for his defence was declined by the Enquiry Officer. It appears that the relevant order has not been properly appreciated by the Workman against the back drop of article 19.12 of the Bipartite Settlement of 1966 which was still binding on the parties. It lays down that neither of them could engage a lawyer without the consent of the other and since the Bank, on its own, had neither waived its right to object nor the petitioner ever applied for its consent therefore, he cannot be heard grieving it now this stage. It is besides the point that through out the proceedings he was represented by his Union who took full interest and laboured hard to bale him out of the situation, as should be evident from the entire conduct of the domestic proceedings, including the Cross-examination of the departmental witnesses.

22. The petitioner complained that Sh. L. D. Khanna who was A. G. M. at the time of issuance of the charge-sheet in his capacity as the Disciplinary Authority, on becoming G. M. had changed the Enquiry Officer as well as the Representing Officer of the Bank without any justification; even though by then he had ceased to be the A.G.M.

23. The grouse is devoid of force because after becoming G. M., Sh. Khanna did not lose any of his previous powers. As a matter of fact they got enhanced by virtue of his promotion; and then, the change in the Enquiry Officer as well as well as the Representing Officer was felt necessary because the proceedings were found dragging for the last more than 2 years without any worthwhile progress.

24. Last but not the least the Workman's the Ld. Rep. was at pains to seek the indulgence of the Tribunal on the point of sentence because according to him the petitioner had already suffered and completed the disqualification period of 5 years, losing his promotion' chances during all this while. He, therefore, prayed that the sentence of stoppage of increments may be removed and he may be let off with more admonition. To some extent, I feel inclined to agree with him because the incident took place more than 8 years ago and the petitioner must have suffered consideration strains and agonies of this protracted litigation he is a youngman at the threshold of his career and might have fallen a victim to the ordinary human temptation of securing an extra point in the Examination without realising that means need not always justify the ends. I, therefore, feel that even simple loss of upto date increments would suffice to meet the ends of the justice.

25. Thus to conclude with my aforesaid discussion on the various aspects of the matter as emerging from the records and the points raised before me, I return my Award against the workman with a rider and direction to the Management to forthwith release his increments in the light of my observations in the preceeding para.

Chandigarh.

21-3-84.

I. P. VASISHTH, Presiding Officer

[No. L-12012/121/81-D.II(A)]

N. K. VERMA, Desk Officer

New Delhi, the 5th April, 1984

S.O. 1310.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the Union Bank of India, Lucknow and their workmen, which was received by the Central Government on the 29th March, 1984.

BEFORE SHRI O. P. SINGLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. No. 81/83

In the matter of dispute between
Peush Chand Sharma, Ex-Clerk,
Union Bank of India represented
by U. P. Bank Employees' Union, Kanpur.

Versus

The Zonal Manager,
Union Bank of India,
Lucknow.

APPEARANCES :

Shri Sat Pal for the Management of Union Bank of India.

Workman Peush Chand Sharma in person with Harmanag Prasad, Assistant General Secretary, U.P. Bank Employees' Union Kanpur.

AWARD

The Central Government, Ministry of Labour, vide Order No. L-12012/249/81-D.II(A) dated 21st August, 1982, referred the following dispute to this Tribunal for adjudication :—

"Whether the management of Union Bank of India is justified in terminating the services of Shri Peush Sharma, Clerk-cum-Godown Keeper? If not, to what relief is the said workman entitled?"

2. The dispute has been amicably settled between the parties, and the Management has agreed to appoint the workman Peush Chand Sharma fresh in the clerical cadre of the bank on regular basis on or before 26-4-84 and he will be issued letter of appointment before that date. The workman has agreed not to claim any back wages or any other benefit from the management for his earlier service with the management. The workman further agreed not to press his claim before this Industrial Tribunal.

3. The settlement referred to above appears to be free and fair and is a voluntary settlement of the dispute between the parties, and the dispute does not survive for adjudication and in accordance with their settlement and request, a No Dispute Award is made.

Further ordered that the requisite number of copies of this award be forwarded to the Central Government for necessary action at their end.

Dated : March 26, 1984.

O. P. SINGLA, Presiding Officer
[No. L-12012/249/83-D.II(A)]

New Delhi, the 5th April, 1984

S.O. 1311.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal New Delhi in the industrial dispute between the employers in relation to the Union Bank of India, Lucknow and their workmen, which was received by the Central Government on the 29th March, 1984.

BEFORE SHRI O. P. SINGLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. No. 179 of 1981

In the matter of dispute between
Anil Kumar Khanna, Godown Keeper through the
Assistant General Secretary, U.P. Bank Employees
Union, Kanpur.

Versus

The Assistant General Manager, Union Bank of India,
Zonal Office, Lucknow.

APPEARANCES :

Shri Sat Pal for the Management of Union Bank of India.

Shri Harmanag Prasad, Assistant General Secretary of the U.P. Bank Employees Union Kanpur.

AWARD

Central Government, Ministry of Labour, vide Order No. L-12012/199/81-D.II(A) dated 9th December, 1981, referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Union Bank of India in relation to its Birhana Road Branch, Kanpur in keeping Shri Anil Kumar Khanna, Godown Keeper temporary from 1-7-1979 and not absorbing him into Bank's service, is justified? If not, to what relief is the workman concerned entitled?"

2. The dispute has been amicably settled between the U.P. Bank Employees Union and the Management of Union Bank of India wherein the workman Mr. A. K. Khanna has been referred afresh appointment in the clerical cadre if the bank on permanent basis w.e.f. 26-4-84 or any earlier date to be specified. The workman shall not claim any back wages or benefits in respect of his past service under the Management. The appointment initially would be at Kanpur without prejudice to Management right to post him anywhere else. The workman under the settlement agreed not to press his claim for adjudication any further.

3. The settlement referred to above appears to be free and fair and is a voluntary settlement of the dispute between the parties and the dispute does not survive for adjudication and in accordance with the request made by the parties a No Dispute Award is made.

Further ordered that the requisite number of copies of this award be forwarded to the Central Government for necessary action at their end.

Dated : March 26, 1984.

O. P. SINGLA, Presiding Officer

[No. L-12012/199/81-D.II(A)]

N. K. VERMA, Desk Officer

(रोजगार तथा प्रशिक्षण महानिदेशालय)

नई दिल्ली, 4 अप्रैल, 1984

का०आ० 1312.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की देखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, और भारत सरकार के श्रम मंत्रालय की अधिसूचना सं० का० आ० 962, तारीख 22 मार्च, 1974 को अधिष्ठात करते हुए, नीचे दी गई सारणी के स्तम्भ 1 में उल्लिखित अधिकाधिकारियों को, सरकार के राजपत्रित अधिकारी होने के नाते, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तम्भ 2 में तत्स्थानीय प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों की बाबत अपनी अधिकारिता को स्थानीय सीमाओं के भीतर, उक्त अधिनियम के द्वारा या उसके अधीन सम्पदा अधिकारियों को प्रवृत्त शक्तियों का प्रयोग करने और सौंपे गए कार्य करने।

सारणी

अधिकारी का पदनाम सरकारी स्थानों के प्रबर्ग और अधि-
कारिता की स्थानीय सीमाएं

1	2
1. प्रशासनिक अधि- कारी, फोरमैन प्रशिक्षण संस्थान तुमकुर रोड़, बंगलौर-22	बंगलौर में केन्द्रीय सरकार के या उसके द्वारा और उसकी ओर से पट्टे पर लिए गए या अधिग्रहीत स्थान, जो निदेशक, फोरमैन प्रशिक्षण संस्थान, तुमकुर रोड़ बंगलौर के प्रशासनिक नियंत्रण में है।
2. प्रशासनिक अधि- कारी उच्च प्रशिक्षण संस्थान, गिन्डी, मद्रास-600032	मद्रास में केन्द्रीय सरकार या या उसके द्वारा और उस की ओर से पट्टे पर लिए गए या अधिग्रहीत स्थान, जो निदेशक उच्च प्रशिक्षण संस्थान, गिन्डी मद्रास और केन्द्रीय अनुदेशक प्रशिक्षण गिन्डी मद्रास के संस्थान प्रशासनिक नियंत्रण में है।
3. रजिस्ट्रार, उच्च प्रशिक्षण संस्थान, मिर्जापुर ट्राम्बे रोड़, मुम्बई	मुम्बई में केन्द्रीय या उसके द्वारा और उसकी ओर से पट्टे पर लिए गए या अधिग्रहीत स्थान जो निदेशक उच्च प्रशि- क्षण संस्थान, मिर्जापुर ट्राम्बे रोड़, मुम्बई के प्रशासनिक नियंत्रण में हैं।
4. रजिस्ट्रार, उच्च प्रशिक्षण संस्थान, दासनगर, हावड़ा	कलकत्ता/हावड़ा में केन्द्रीय सरकार के या उसके द्वारा और उसकी ओर से पट्टे पर लिए गए या अधिग्रहीत स्थान, जो निदेशक, उच्च प्रशिक्षण संस्थान दासनगर हावड़ा के प्रशासनिक नियंत्रण में है।
5. रजिस्ट्रार, उच्च प्रशिक्षण संस्थान, हैदराबाद	हैदराबाद में केन्द्रीय सरकार के या उसके द्वारा और उसकी ओर पट्टे पर लिए गए या अधिग्रहीत स्थान, जो निदेशक, उच्च प्रशिक्षण संस्थान, हैदराबाद के प्रशासनिक नियंत्रण में हैं।
6. रजिस्ट्रार, उच्च प्रशिक्षण संस्थान कानपुर	कानपुर में केन्द्रीय सरकार के या उसके द्वारा और उसकी ओर से पट्टे पर लिए गए या अधिग्रहीत स्थान, जो निदे- शक, उच्च प्रशिक्षण संस्थान, गोविन्दनगर, कानपुर के प्रशासनिक नियंत्रण में हैं।

7. रजिस्ट्रार, उच्च लुधियाना में केन्द्रीय सरकार
प्रशिक्षण संस्थान, या उसके द्वारा और उसकी
लुधियाना ओर से पट्टे पर लिए गए
या अधिग्रहीत स्थान जो
निदेशक उच्च प्रशिक्षण संस्थान
गिल रोड़, लुधियाना के प्रशास-
निक नियंत्रण में हैं।

[डी जी ई टी डी-11014/4/83-डी ए -II]

पी० आर० रामाकृष्णन, अवर सचिव

(Directorate General of Employment & Training)

New Delhi, the 4th April, 1984

S. O. 1312—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Labour No. S.O. 962 dated the 22nd March, 1974, the Central Government hereby appoints the officers mentioned in the column 1 of the Table below, being gazetted officers of Government, to be estate officers for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed, on estate officers by or under the said act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entry in column 2 of the said Table.

TABLE

Designation of Officer	Categories of public premises local limits of jurisdiction
1. Administrative Officer, Foremen Training Ins- titute, Tumkur Road, Bangalore-22.	Premises belonging to or taken on lease or requisitioned by and on behalf of the Central Government in Bangalore and which are under the adminis- trative control of the Director, Foremen Training Institute, Tumkur Road, Bangalore.
2. Administrative Officer Advanced Training Ins- titute, Guindy, Madras- 6000032.	Premises belonging to or taken on lease or requisitioned by and on behalf of the Central Government in Madras and which are under the adminis- trative control of the Director Advanced Training Institute, Guindy, Madras as well as Central Training Institute for Instructors, Guindy, Madras.
3. Registrar, Advanced Training Institute, Sion- Trombay Road, Bom- bay.	Premises belonging to or taken on lease or requisitioned by and on behalf of the Central Government in Bombay and which are under the adminis- trative control of the Director, Advanced Training Institute, Sion, Trombay Road, Bombay

1	2
4. Registrar, Advanced Training Institute, Dasnagar, Howrah.	Premises belonging to or taken on lease or requisitioned by and on behalf of the Central Government in Calcutta/Howrah and which are under the administrative control of the Director, Advanced Training Institute, Dasnagar, Howrah.
5. Registrar, Advanced Training Institute, Hyderabad.	Premises belonging to or taken on lease or requisitioned and on behalf of the Central Government in Hyderabad and which are under the control of the Director, Advanced Training Institute, Hyderabad.
6. Registrar, Advanced Training Institute, Kanpur.	Premises belonging to or taken on lease or requisitioned by and on behalf of the Central Government in Kanpur and which are under the administrative control of the Director, Advanced Training Institute, Govindnagar, Kanpur.
7. Registrar, Advanced Training Institute, Ludhiana.	Premises belonging to or taken on lease or requisitioned by and on behalf of the Central Government in Ludhiana and which are under the administrative control of the Director, Advanced Training Institute, Gull Road, Ludhiana.

[No. DGETD-11014/4/83-T.A.-II]
P. R. RAMAKRISHNAN, Dy. Secy.

नई दिल्ली, 2 अप्रैल, 1984

का० आ० 1314.—केन्द्रीय सरकार ने न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) की धारा 4 की उपधारा (1) के खण्ड (iii) के साथ पठित धारा 3 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इसमें उपाबद्ध अनुसूची के स्तम्भ 2 में विनिर्दिष्ट मजदूरी की न्यूनतम दरों को, जो उक्त अनुसूची के स्तम्भ 1 की तत्स्थानी प्रविष्टियों में विनिर्दिष्ट मार्बल और कैलसाइट खानों में उनके नियोजन में नियोजित प्रवर्ग के कर्मचारियों को संदेय है, निर्धारित करने के लिए निम्नलिखित प्रस्ताव बनाये हैं जो उक्त अधिनियम की धारा 5 की उपधारा (1) के खण्ड (ख) की अपेक्षानुसार उन सभी व्यक्तियों की जानकारी के लिये प्रकाशित किये जा रहे हैं, जिनके उससे प्रभावित होने की संभावना है और यह सूचना दी जाती है कि उक्त प्रस्तावों पर इस अधिनियम के राजपत्र में प्रकाशन की तारीख से दो मास के अवसान के पश्चात् विचार किया जायेगा।

ऊपर विनिर्दिष्ट अवधि के अवसान के पूर्व उक्त प्रस्तावों की बाबत जो भी आक्षेप या सुझाव किसी व्यक्ति से प्राप्त होंगे, केन्द्रीय सरकार उन पर विचार करेगी।

अनुसूची

कार्य का वर्गीकरण	सदत्त मजदूरी की न्यूनतम दरें
1	2
अकुशल :	
मजदूर (पुरुष और स्त्री)	
औकीदार, कुली, (पुरुष और स्त्री), क्लीनर, खलासी,	
(1)	(2)
लड़ाई करने वाला, होल कटर, अर्थ कटर, बाहक (पत्थर), बाहक ठेकेदार, केपरटेकर, ड्राइवर (बैल, ऊंट, गध्रा, खच्चर), लैम्प मैन, पेट्रोलमैन, सफाई करने वाला, पानी वाला, बेलदार, अन्य प्रवर्ग चाहे व किसी भी नाम से ज्ञात हों, जो अकुशल हैं।	9. 75 रुपये (भूमि के ऊपर कार्य करने के लिए) 11. 75 रु० (भूमि के नीचे कार्य करने के लिए)

अर्द्धकुशल

भिस्ती, ब्रेकर, ड्रिलर, खनिक, माली परिचारी, रसोइया, शिशु-रक्ष-आया, प्रधान औकीदार, मददगार, मुकद्दम, मेट, आयलमैन, पम्प खलासी, माट फायरर, प्रधान भिस्त्री, कबैरी मैन, कबैरी अपरेटर, स्टोरमैन, स्ट्राकर, वायलरमन, थ्रेचर, थ्रूम्बा-मैन, रिटिडलस, ट्रालीमैन, जमादार, बैरा, ब्रेक्समैन, मददगार (लोको, क्रेन, ट्रक), टोपाज, टोपकार (बड़ा पत्थर/संगमरमर/कलसाइट ब्रेकर), एज रनर, टैंक ड्राइवर, टिम्बर मैन, जैक हैमर, शोने-ड्राइवर, अन्य प्रवर्ग, चाहे व किसी भी नाम से ज्ञात हो, जो अर्द्ध-कुशल हैं।	12. 25 रुपये (भूमि के ऊपर कार्य करने के लिए) 14. 75 रुपये (भूमि के नीचे कार्य करने के लिए)
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1

2

कुशल :

लोहार, बकई, कम्पाउंडर, 15.00 रुपये (भूमि के विजली मिस्त्री, फोरमैन, ऊपर कार्य करने के लिए) फिटर, खान पर्यवेक्षी, दर्जी, प्रधान रसोइया, इंजनमैन, वेल्डर, ब्लास्टर, 18.00 रुपये (भूमि के नीचे मशीन मिस्त्री, उप ओवर कार्य करने के लिए) सियर (अनहिट), सर्वेक्षक, अपरेटर, अन्य प्रवर्ग चाहे वे किसी भी नाम से ज्ञात हो।

लिपिकीय:—

लेखाकार, लिपिक, मुन्शी, 15.00 रुपये भंडार लिपिक, सामग्री देने वाला, भंडारी, (ग्रेड-I और ग्रेड II) टली लिपिक, टाइम कीपर, टूल कीपर, कम्प्यूटर, टंकक, आशु लिपिक अभिलेखापाल, अन्य प्रवर्ग, चाहे वे किसी भी नाम से ज्ञात हों, जो लिपिकीय प्रकार के हैं।

स्पष्टीकरण:—

इस अधिसूचना के प्रयोजनों के लिये :—

- (1) न्यूनतम दरें सर्वसम्मिलित दरें हैं जिनमें आधारी दर, जीवन निर्वाह भत्ता, आवश्यक वस्तुओं के रियायती दर पर किए गए प्रदायों, यदि कोई हों, नकदी मूल्य सम्मिलित है तथा साप्ताहिक विश्राम के लिए देय मजदूरी भी सम्मिलित है।
- (2) इस अधिसूचना द्वारा प्रस्तावित मजदूरी की न्यूनतम दरें ठेकेदारों द्वारा नियोजित कर्मचारियों को भी लागू हैं।
- (3) अठारह वर्ष से कम आयु के और असमर्थ व्यक्तियों को देय मजदूरी की न्यूनतम दरें समुचित प्रवर्ग के कर्मचारों के लिए इस अधिसूचना द्वारा प्रस्तावित दरों का क्रमशः 80 प्रतिशत और 100 प्रतिशत होगी।

(4) (क) “अकुशल कार्य” से वह कार्य अभिप्रेत है जिसमें बहुत थोड़ी कुशलता अपेक्षित करने वाला या कुछ भी कुशलता अथवा अनुभव अपेक्षित न करने वाला साधारण क्रियाएं सम्मिलित हैं ;

(8) “अर्द्धकुशल कार्य” से वह कार्य अभिप्रेत है जिसमें कार्य के अनुभव से अर्जित कुछ मात्रा में कुशलता या सक्षमता सम्मिलित हैं और जो कुशल कर्मचारी के पर्यवेक्षण या मार्गदर्शन के अधीन किए जाने योग्य हैं और इसके अंतर्गत अकुशल पर्यवेक्षी कार्य भी हैं ;

(ग) “कुशल कार्य” से वह कार्य अभिप्रेत है जिसमें कार्य के अनुभव से अथवा शिक्षा के रूप में या किसी तकनीकी या व्यावसायिक संस्था में प्रशिक्षण के माध्यम से अर्जित कुशलता या सक्षमता अपेक्षित है जिसके पालन में स्वप्रेरणा और विवेक बुद्धि आवश्यक है।

5. जहां संविदा या करार पर या अन्यथा आधारित मजदूरी की विद्यमान दरें इस अधिसूचना द्वारा प्रस्तावित दरों से उच्चतर हैं वहां ऐसी उच्चतर दर इस अधिसूचना के प्रयोजनार्थ न्यूनतम मजदूरी की दरें समझी जायेंगी।

[सं० 32019/9/83-इल्य० सी० (एम० डब्ल्यू०)]

New Delhi, the 2nd April, 1984

S. O. 1313—The following proposals made by the Central Government in exercise of powers conferred by clause (a) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 of the Minimum Wages Act, 1948 (11 of 1948) for fixing the minimum rates of wages as specified in column (2) of the Schedule annexed hereto payable to the categories of employees employed in employments in Marble and Calcite Mines as specified in the corresponding entries in column (1) of the said Schedule are hereby published as required by clause (b) of sub-section (1) of section 5 of the said Act for information of all persons likely to be affected thereby and notice is hereby given that the said proposal shall be taken into consideration after the expiry of 2 months from the date of publication of this notification in the Official Gazette.

Any objection or suggestion which may be received from any person with respect to the said proposals before the expiry of period specified above will be considered by the Central Government.

SCHEDULE

Classification of work	Minimum rates of wages per day
(1)	(2)
Unskilled	
Mazdoor (Male & Female) Chowkidar, Collie (Male & Female), Cleaner, Khalasi, Loader, Hole cutter, Barth cutter, Carrier (Stone), Carrier, Cartman, Caretaker, Driver (Bullock, camel, donkey, mule), Lampman, Petrolman, White Washer, Waterman, Beldar, other categories by whatever name called which are unskilled.	Rs. 9.75 (for work above ground) Rs. 11.75 (for work below ground)
Semi-skilled	
Bhisti, Breaker, Driller, Miner, Mali, Attendant, Cook, Creche Ayah, Head Chowkidar, Helper, Muccadam, Mate, Oilman, Pump Khalasi Shot firer Head mistry Quarry man Quarry operator, Store man, Stocker, Boilerman, Thatcher, Thoombaman, Tindals, Trolleyman, Jamadar, Bearer, Breaksman, Helper, (Loco crane, truck), Topaz, Topkar (big stone/Marble/Calcite Breaker), Edge Runner, Pack Wallers, Timberman, Jack Hammer, Shone Dresser, other categories by whatever name called which are semi-skilled.	Rs. 12.25 (for work above ground) Rs. 14.75 (for work below ground)
Skilled	
Blacksmith, Carpenter, Compounder, Electrician, For man, Fitter, mine Supervisor, Tattler, Head Cook, Engine Man, Welder, Blaste., Machinist, Sub-overseer (Un-qualified), Surveyor operator, any other categories by whatever name called which are of skilled nature.	Rs. 15.00 (for work above ground) Rs. 18.00 (for work below ground)
Clerical	
Accountant, Clerk, Munshi, Store clerk, Store issuer, Store keeper (Grade I & II), Talley clerk, Time keeper, Tool keeper, Computor, Typist, Steno, Record keeper, other categories by whatever name called which are clerical.	Rs. 15.00

Explanation:—For the purpose of this notification:

- (1) The minimum rates of wages are all inclusive rates including the basic rate, the cost of living allowance and the cash value of the concessional supply, if any, of essential commodities and include also the wages payable for the weekly day of rest.
- (2) The minimum rates of wages are applicable to employees employed by Contractors also.
- (3) The minimum rates of wages payable to young persons below 18 years of age and for disabled persons shall be 80% and 10% respectively of the rate fixed by this notification for adult workers of the appropriate category.
- (4) (a) "Unskilled work" is one which involves simple operations requiring little or no skill or experience on the job;
- (b) "Semi-skilled work" is one which involves some degree of skill or competence acquired through experience on the job and which is capable of being performed

under the supervision or guidance of a skilled employee and includes unskilled supervisory work;

- (c) "Skilled work" is one which involves skill or competence acquired through experience on the job or training as an apprentice or in a technical or vocational institute and the performance of which calls for initiative and judgement.
- (5) Where the existing rates of wages of any employee, based on contract or agreement or otherwise, are higher than the rates notified herein, the higher rates shall be treated as the minimum rates of wages applicable for the purpose of this notification to such employees.

[No.S-32019/9/83-WCC MW]

नई दिल्ली, 7 अप्रैल, 1984

का० अ० 1314.—केन्द्रीय सरकार न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) की धारा 4 की उपधारा (1) के खण्ड (iii) के साथ पठित धारा 3 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे उपाबद्ध अनुसूची के स्तम्भ (2) में विनिर्दिष्ट मजदूरी की न्यूनतम दरों का जो उक्त अनुसूची के स्तम्भ (1) की तत्स्थानी प्रविष्टियों में विनिर्दिष्ट हेमादाइट खानों में उसके नियोजन में नियोजित प्रवर्ग के कर्मचारियों को संदेय है, निर्धारित करने के लिए निम्नलिखित प्रस्ताव बनाए हैं जो उक्त अधिनियम की धारा 5 की उपधारा (1) के खण्ड (ख) की अपेक्षानुसार उन सभी व्यक्तियों की जानकारी के लिए प्रकाशित किए जा रहे हैं, जिनके उससे प्रभावित होने की संभावना है और यह सूचना दी जाती है कि उक्त प्रस्तावों पर उक्त अधिनियम के राजपत्र में प्रकाशन की तारीख से दो मास के अवसान के पश्चात् विचार किया जाएगा।

ऊपर विनिर्दिष्ट अवधि के अवसान से पूर्व उक्त प्रस्तावों की बाबत जो भी आक्षेप या सुझाव किसी व्यक्ति से प्राप्त होंगे, केन्द्रीय सरकार उन पर विचार करेगी।

अनुसूची

कार्य का वर्गीकरण	दैनिक मजदूरी की न्यूनतम दरें
1	2
अकुशल:	
मजदूर (पुरुष और महिला), चौकीदार, क्लीनर, खलासी, अर्थ-कटर, बाहक (पत्थर), बाहक, पट्टोल मैन, सफ़ेदी करने वाला, पानी वाला, पानी ले जाने वाला, अन्य प्रवर्ग चाहे वे किसी भी नाम से ज्ञात हों, जो अकुशल हैं।	9.75 रु० (भूमि के ऊपर कार्य के लिए) 11.75 रु० (भूमि के नीचे कार्य के लिए)

1	2
अर्द्धकुशल/अकुशल पर्यवेक्षी :	
*खनक, ब्रेकर, ड्रिलर, भिण्सी, परिचर, रसोइया, फ्रीज-आया, प्रधान चौकीदार, मुकदम, आयल-मैन, पम्प खलासी, शाट-फायरर, प्रधान मिस्त्री, क्वैरीमैन, खदान प्रचालक, स्टोर मैन, स्ट्राकर, बायलर मैन, थैंपर, युम्बा मैन, टिण्डल, ट्रालीमैन, जमादार, बैरा, ब्रेक्समैन, मददगार (लोकी, फ्रेन, ट्रक), टिम्बर मैन, जैक हैमर, माली, मेट (धातुत्पादक खान विनियम, 1961 के अधीन क्षमता प्रमाणपत्र के बिना), स्टोन कटर और ड्रेसर, बिजल मैन, अन्य प्रवर्ग चाहे वे किसी भी नाम से ज्ञात हों, जो अर्द्धकुशल/अकुशल पर्यवेक्षी हैं ।	12.25 रु० (भूमि के ऊपर कार्य के लिए) 14.75 रु० (भूमि के नीचे कार्य के लिए)

कुशल :

लौहार, बटर्ही, कम्पाउन्डर, बिजली मिस्त्री, फोरमैन, फिटर, खान पर्यवेक्षक प्रधान रसोइया, इंजन, मैन, बैल्डर, विस्फोटकर्ता, मशी-निस्ट, सब-ओवरसियर (अनर्हित) सर्वेक्षक, पम्प प्रचालक, मेट (धातु-उत्पादक खान विनियम, 1961 के अधीन क्षमता प्रमाणपत्र सहित) अन्य प्रवर्ग चाहे वे किसी भी नाम से ज्ञात हों, जो कुशल प्रकृति के हैं ।	15.00 रु० (भूमि के ऊपर कार्य के लिए) 18.00 रु० (भूमि के नीचे कार्य के लिए)
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लिपिकीय :

लेखाकार, लिपिक, मुंशी, स्टोर लिपिक स्टोर इन्शुरर, (सामग्री देने वाला), स्टोर कीपर (ग्रुप I और II), टैली लिपिक, टाइम-कीपर, टूल कीपर, कम्प्यूटर, टंकक, आशुलिपिक, अभिलेखापाल, अन्य प्रवर्ग चाहे वे किसी भी नाम से ज्ञात हों, जो लिपिकीय प्रकृति के हैं ।	15.00 रु०
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स्पष्टीकरण : इस अधिसूचना के प्रयोजन के लिए :—

1. प्रस्तावित न्यूनतम दरें सर्वसम्मिलित दरें हैं जिसमें आधारी दर, जीवन निर्वाह भत्ता, आवश्यक वस्तुओं के रियायती दर पर किए गए प्रदायों का, यदि कोई हो, नकदी

मूल्य सम्मिलित है तथा साप्ताहिक विश्राम के लिए वेतन मजदूरी भी सम्मिलित है ।

2. मजदूरी की न्यूनतम दरें ठेकेदारों द्वारा कर्मचारियों को भी लागू हैं ।

3. अठारह वर्ष से कम आयु के और असमर्थ व्यक्तियों के लिए मजदूरी की न्यूनतम दरें समुचित प्रवर्ग के वयस्क कर्मचारियों की संदेय दरों का क्रमशः 80 प्रतिशत और 100 प्रतिशत होगी ।

4. (क) "अकुशल कार्य" से वह कार्य अभिप्रेत है जिसमें कार्य की बहुत थोड़ी कुशलता या अनुभव अपेक्षित करने वाली या कुछ भी कुशलता या अनुभव न अपेक्षित करने वाली साधारण क्रियाएं सम्मिलित हैं ।

(ख) "अर्द्धकुशल" से वह कार्य अभिप्रेत है जिसमें कार्य के अनुभव से अर्जित कुछ मात्रा में कुशलता या सक्षमता सम्मिलित है और जो कुशल कर्मचारी के पर्यवेक्षण या मार्ग दर्शन के अधीन किए जाने योग्य हैं और इसके अन्तर्गत अकुशल पर्यवेक्षी कार्य भी आता है ।

(ग) "कुशल कार्य" से वह कार्य अभिप्रेत है जिसमें कार्य के अनुभव से अथवा शिक्षा के रूप में या किसी तकनीकी या व्यावसायिक संस्था में प्रशिक्षण के माध्यम से अर्जित कुशलता या सक्षमता अपेक्षित है, जिसके पालन में स्वप्रेरणा और विवेक बुद्धि आवश्यक है ।

5. जहाँ संविदा या करार पर आधारित मजदूरी की विद्यमान दरें अधिनियम के अधीन अधिसूचित दरों से उच्चतम हैं वहाँ ऐसी उच्चतर दरें संरक्षित की जाएंगी और इस अधिसूचना के प्रयोजनों के लिए न्यूनतम मजदूरी की दरें मानी जाएंगी ।

* 6. हेमाटाइट में काम करने वाला श्रमिक, उत्खनन और हेमाटाइट अयस्क हटाने तथा इससे सम्बद्ध कार्य में लगा है, को "खनक" माना जाएगा ।

[सं० एस० 320195/83-डब्ल्यू० सी० (एम० डब्ल्यू०)]

जगदीश जोशी, निदेशक

New Delhi, the 7th April 1984

S.O. 1314.—The following proposals made by the Central Government in exercise of powers conferred by clause (a) of sub-section (1) of section 3 read with clause (iii) of sub-section (1) of section 4 of the Minimum Wages Act, 1948 (11 of 1948), for fixing the minimum rates of wages as specified in column (2) of the Schedule annexed hereto payable to the categories of employees employed in employment in Hematite mines as specified in the corresponding entries column (1) of the said Schedule are hereby published as required by clause (b) of sub-section (1) of section 5 of the said Act for information of all persons likely to be affected hereby and notice is hereby given that the said proposals shall be taken into consideration

after the expiry of 2 months from the date of publication of this notification in the Official Gazette.

Any objection or suggestion which may be received from any person with respect to the said proposals before the expiry of period specified above will be considered by the Central Government.

SCHEDULE

Classification of work	Minimum rates of wages per day.
(1)	(2)

Unskilled :

Mazdoor (male and female), Rs. 9.75 (for work above Chowkidar, Cleaner, Khalasi, ground).

Earth-cutter, Carrier (stone), Rs. 11.75 (for work below Carrier, Petrolman, White Washer, Water-carrier, other categories by whatever name called which are unskilled. ground)

Semi-skilled/unskilled supervisory :

*Miner, Breaker, Driller, Bhisti, Rs. 12.25 (for work above Attendant, Cook, Creche, Ayah, ground).

Head Chowkidar, Muccadam, Rs. 14.75 (for work below Oilman, Pump Khalasi, Shot ground).

Firer, Head Mistry, Quarry man, Quarry Operator, Storeman, Stocker, Boilerman, Thatcher, Thombaman, Tindals, Trolley man, Jamadar, Bearer, Breaksman, Helper (Loco, Crane, Truck), Timberman, Jack Hammer, Mali, Mate (without competency certificate under Metalliferous Mines Regulations, 1961), Stone cutter and dresser, Chisel man, other categories by whatever name called are semi-skilled/unskilled supervisory.

Skilled :

Blacksmith, Carpenter, Compounder, Electrification, Foreman, Rs. 15.00 (for work above Filter, Mine Supervisor, Head ground).

Cook, Engine man, Welder, Rs. 18.00 (for work below Blaster, Machinist, Sub-overseer ground).

(Unqualified), Surveyor, Pump Operator, Operator, Mate (with competency certificate under Metalliferous Mines Regulation, 1961), other categories by whatever name called which are of Skilled nature.

Clerical :

Accountant, Clerk, Munshi, Store Rs. 15.00 clerk, Store issuer, Store Keeper (grade I and II), Tally clerk, Time Keeper, Tool keeper, Computer, Typist, Steno, Record keeper, other categories by whatever name called which are Clerical.

Explanation—For the purpose of this notification :—

(1) The minimum rates of wages are all inclusive rates including the basic rate, the cost of living allowance and the cash value of the concessional supply, if any, of essential commodities and include also the wages payable for the weekly day of rest.

(2) The minimum rates of wages are applicable to employees employed by contractors also.

(3) The minimum rates of wages payable to young persons below 18 years of age and for disabled persons shall be 80% and 100% respectively of the rates fixed by this notification for adult workers of the appropriate category.

(4) (a) "Unskilled work" is one which involves simple operations requiring little or no skill or experience on the job;

(b) "Semi-skilled work" is one which involves some degree of skill or competence acquired through experience on the job and which is capable of being performed under the supervision or guidance of a skilled employee and includes unskilled supervisory work;

(c) "Skilled work" is one which involves skill or competence acquired through experience on the job or through training as an apprentice or in a technical or vocational institute and the performance of which calls for initiative and judgement.

(5) Where the existing rates of wages of any employees, based on contract or agreement or otherwise, are higher than the rates notified here in, the higher rates shall be treated as the minimum rates of wages applicable for the purpose of this notification to such employees,

(6) A worker in a hematite mine who is engaged in extraction and removal of hematite ores as well as in other incidental jobs shall be designated as a 'Miner'.

[No. S-32019/5/83-WC (MW)]

JAGDISH JOSHI, Director

नई दिल्ली, 13 मार्च, 1984

आदेश

का० आ० 1315.—केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में वरिष्ठ विभागीय प्रबन्धक, भारतीय जीवन बीमा निगम अहमदाबाद के प्रबंध तंत्र से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारों के बीच विद्यमान है।

और केन्द्रीय सरकार उक्त विवाद को मध्यस्थान के लिए निर्देशित करना वांछनीय समझती है ;

अतः केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम 1947 (1947) का 14 की धारा 7-क और धारा 10 की उपधारा (i) के खंड (घ) द्वारा प्रदत्त शक्तियों प्रयोग करते हुए एक औद्योगिक अधिकरण गठित

करती है जिसके पीठासीन अधिकारी श्री जी० एस० बरोत होंगे जिनका मुख्यालय अहमदाबाद में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

“क्या भारतीय जीवन बीमा निगम के प्रबन्धतंत्र द्वारा अपने पश्चिम जोनल कार्यालय “जीवन केन्द्र” जमशेद जी टाटा रोड बम्बई के सम्बन्ध में श्री एम० एम० शेख को 25-1-1982 से उनकी सेवा बर्खास्त करने का दिया गया दण्ड उनके द्वारा किए गए बुराचार के बेमेल (डिस. प्रोपोशनेट) है? यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है?”

[सं० एल-17012/16/83-डी-4 (ए)]

New Delhi, the 13th March, 1984

ORDER

S.O. 1315.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of Senior Divisional Manager, Life Insurance Corporation of India, Ahmedabad and their workmen in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri G. S. Barot shall be the Presiding Officer, with headquarters at Ahmedabad and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

“Whether the punishment of termination of service awarded by the management of Life Insurance Corporation of India, in relation to its Western Zonal Office, “Jeevan Kendra”, Jamshedji Tata Road, Bombay to Shri M. M. Shaikh, with effect from 25-1-1982 is disproportionate to the misconduct committed by him. If so, to what relief is the workman concerned entitled?”

[No. L-17012/16/83-D-IV(A)]

नई दिल्ली, 15 मार्च, 1984

आवेष्ट

का० आ० 1316.—केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में न्यू० मंगलूर पोर्ट ट्रस्ट पेनम्बूर के प्रबन्धतंत्र से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मकारों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः केन्द्रीय सरकार औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7क और धारा 10

की उप-धारा (1) के खंड (घ) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री वी०एच० उपाध्याय होंगे जिनका मुख्यालय बंगलूर में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

“क्या न्यू मंगलूर पोर्ट ट्रस्ट पेनम्बूर के प्रबन्धतंत्र की लिपिक सर्वश्री वेदरत्नम और ओसमन्ड वी० जे० फर्नान्डिस को जो स्पोर्ट्स कोटे से नियुक्त किए गए थे 4-1-1981 को हुण समझौते की शर्तों के अनुसार नये वेतनमान में उनके वेतन पुनर्निर्धारित करते समय 5 वेतन वृद्धि के आर्थिक लाभ से वंचित रखने की कार्यवाही उचित तथा न्यायोचित है यदि नहीं तो संबंधित कर्मकार किस अनुतोष के हकदार है?”

[सं० एल० 45012/3/83-डी-4 (ए)]

एस० एस० पराशर, डेस्क अधिकारी

New Delhi, the 15th March, 1984

ORDER

S.O. 1316.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of New Mangalore Port Trust, Panambur and their workmen in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of the section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri V. H. Upadhyaya, shall be the Presiding Officer, with headquarters at Bangalore and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

“Whether the action of the management of NMPT, Panambur in depriving the monetary benefits of 5 increments to S/Shri Vedartnam and Osmund V. J. Fernandes LDC, who were appointed against the Sports Quota while re-fixing their scales of pay in the new scale as per the terms of settlement dated 4-1-1981 is proper and justified? If not, to what relief are the concerned workmen entitled?”

[No. L-45012/3/83-D-IV(A)]

S. S. PARASHER, Desk Officer.

New Delhi, the 6th April, 1984

S.O. 1317.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the Hindustan Commercial Bank Limited, Kanpur and their workman, which was received by the Central Government on the 29th March, 1984.

BEFORE SHRI O. P. SINGLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. No. 121/81

In the matter of dispute between

Hazari Lal, ex-employee, Hindustan Commercial Bank
Limited, C/o Shri O. P. Kapoor, J-8/77, Rajouri
Garden, New Delhi.

Vs.

The Management of Hindustan Commercial Bank Ltd.,
Head Office, Birbana Road, Kanpur.

APPEARANCE :

Shri Prabhat Shukla—for the Management of the Bank.

None—for the Workman.

AWARD

The Central Government, Ministry of Labour, vide Order
No. L-12012(63)/81-D.II(A) dated 21st August, 1981,
referred the following dispute to this Tribunal for adjudi-
cation :—

“Whether the action of the management of the Hindus-
tan Commercial Bank Limited in relation to its
New Delhi Branch in terminating the services of
Shri Hazari Lal, Ex-godown peon with effect from
the 13th January, 1979 is justified? If not, to
what relief is the workman entitled?”

2. In a statement of claim the workman asserted that
he had been engaged as a temporary godown watchman in
the Bank in the year 1962 and worked uptill 13-1-1979
with a few breaks in his service. His case is that he has
served for more than 240 days in the service of bank and his
services could not be terminated in compliance of S. 25-B
of Industrial Disputes Act, 1947 and that he would have
completed the age of 60 years on 7-12-79, and could not
be asked to leave on 13-1-79.

3. The Management contested the claim and asserted that
the workman reached the age of superannuation on 13-1-79
and his contention that his date of birth was 8-12-1919 was
never accepted by the bank. It is said to be not case of
retrenchment but of superannuation on reaching the age
of 60 years.

4. The workman did not appear before this Tribunal and
the Management has filed an affidavit that the workman
attained the age of superannuation on 13-1-79 on comple-
tion of 60 years of age, and the date of birth asserted by
Hazari Lal was not correct and was never accepted by the
bank.

5. In this situation, the action of the Management does
not seem to be otherwise than justified and the workman
is held entitled to no relief. The Award is made exparte
against the workman.

Further ordered that the requisite number of copies of
this award be forwarded to the Central Government for
necessary action at their end.

Dated : March 26, 1984.

O. P. SINGLA, Presiding Officer
[No. L-12012/63/81-D.N. (A)/DIV(A)]
S. S. PARASHER, Desk Officer

नई दिल्ली 5 अप्रैल, 1984

का० आ० 1318.—केन्द्रीय सरकार खान अधिनियम
1952 (1952 का 35) की धारा 5 की उपधारा (i)
द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार
के भूतपूर्व श्रम मंत्रालय की अधिसूचना सं० का० आ०

3287 तारीख 31 अगस्त 1979 को अधिकांत करते हुए
कोयला खान श्रम कल्याण संगठन के निम्नलिखित अधि-
कारियों को मुख्य निरीक्षक के अधीनस्थ खान निरीक्षक
नियुक्त करती है अर्थातः—

1. श्री बंसत सिंह, सहायक कल्याण प्रशासक।
2. श्री पारितोष भट्टाचार्य, सहायक कल्याण प्रशासक।
3. श्री सखरंजन सतार सहायक कल्याण प्रशासक।
4. श्री एन० कच्छप, सहायक कल्याण प्रशासक।
5. श्री एन० के० सिंह सहायक कल्याण प्रशासक।
6. श्री बिमलेश्वर भट्टाचार्य, सहायक कल्याण प्रशासक।
7. श्रीमती आर० डी० पंत, सहायक कल्याण प्रशासक।
8. श्री एन० एस० मूर्ति, कल्याण प्रशासक।
9. श्री रघुनंदन यादव, कल्याण निरीक्षक।
10. श्री के० डी० दुआरा, कल्याण प्रशासक।
11. श्री एम० के० झा, सहायक कल्याण प्रशासक।

[सं० एस०-29013/2/80-एम I]

एल० के० नारायणन, अवर सचिव।

New Delhi, the 5th April, 1984

S.O.1320.—In exercise of the powers conferred by sub-
section (1) of section 5 of the Mines Act 1952 (35 of
1952) and in supersession of the notification of the Govern-
ment of India in the late Ministry of Labour No. S.O. 3287
dated the 31st August, 1979, the Central Government hereby
appoints the following officers of the Coal Mines Labour
Welfare Organisation to be the Inspectors of Mines subordi-
nate to the Chief Inspector, namely :—

1. Shri Basant Singh, Assistant Welfare Administrator.
2. Shri Paritosh Bhattacharya, Assistant Welfare Admin-
istrator.
3. Shri Sukha Ranjan Sutar, Assistant Welfare Adminis-
trator.
4. Shri N. Kachhap, Assistant Welfare Administrator.
5. Shri N. K. Singh, Assistant Welfare Administrator.
6. Shri Bimaleswar Bhattacharya, Assistant Welfare
Administrator
7. Smt. R. D. Pant, Assistant Welfare Administrator.
8. Shri N. S. Murthy, Welfare Administrator.
9. Shri Raghunandan Yadav, Welfare Inspector.
10. Shri K. D. Duara, Welfare Administrator.
11. Shri H. K. Jha, Assistant Welfare Administrator.

[No. S-29013/2/82-M.I.]

L. K. NARAYANAN, Under Secy.

का० आ० 1319.—उत्प्रवास अधिनियम 1983 (1983
का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते
हुए केन्द्रीय सरकार श्री रवि दत्त मिश्र अवर सचिव श्रम
विभाग को 6-4-1984 से अगले आदेश जारी होने
तक, उत्प्रवास संरक्षी बम्बई के रूप में सभी दस्तावेजों पर
हस्ताक्षर करने के लिए प्राधिकृत करती है।

[ए-22012/1/84-इमीग्रेशन-II]

आर० के० दास अवर सचिव।

S.O. 1319.—In exercise of the powers conferred by Section 5 of the Emigration Act 1983 (31 of 1983), the Central Government hereby authorised Shri R. D. Mishra, Under Secretary of the Department of Labour to sign all relevant documents as Protector of Emigrants, Bombay with effect from 6-4-1984 till further orders.

[No. A-22012(1)/84-EMIG. II]

R. K. DAS, Under Secy.

नई दिल्ली, 21 मार्च, 1984

आदेश

कां.आ. 1320.—केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में पश्चिमी रेलवे राजकोट के प्रबंधन से सम्बद्ध एक औद्योगिक विवाद नियोजकों और उनके कर्मचारों के बीच विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्देशित करना वांछनीय समझती है;

अतः केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7क और धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री जी०एस० बरोत होंगे, जिनका मुख्यालय अहमदाबाद में होगा और उक्त विवाद को उक्त अधिकरण को न्यायनिर्णयन के लिए निर्देशित करती है।

अनुसूची

“क्या प्रभागीय रेलवे प्रबंधक तथा लोको फोरमैन साबरमती, अहमदाबाद (राजकोट डिवीजन) पश्चिमी रेलवे, की स्थानापन्न श्री एन० प्रेम सिंह, की 8-9-73 से सेवा समाप्त करने की कार्यवाही न्यायोचित है? यदि नहीं, तो संबंधित कर्मकार किस अनुतोष का हकदार है?”

[सं० एल-41011/55/83-डी-2(बी)]

टी०बी० सीतारामन, अवर सचिव

New Delhi, the 21st March, 1984

ORDER

S.O. 1320.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Western Railway Rajkot and their workmen in respect of the matter specified in the schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Section 7A, and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri G. S. Barot shall be the Presiding Officer, with headquarters at Ahmedabad and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

“Whether the action of the Divisional Railway Manager and Loco Foreman Sabarmati, Ahmedabad (Rajkot Division) Western Railway, in terminating the services of Shri N. Prem Singh, substitute with effect

from 8-9-73 is justified? If not, to what relief is the concerned workman entitled?”

[No. L-41011(55)/83-D-II(B)]

T. B. SITARAMAN, Under Secy.

New Delhi, the 5th April, 1984

S.O. 1321.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh in the industrial dispute between the employers in relation to the management of Beas Project Power Wing Section-17 Chandigarh and their workman which was received by the Central Government on the 26th March, 1984.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I.D. 120/80 (New Delhi) 116/83 CHD

PARTIES :

Employers in relation to the management of Beas Project Power Wing, Sector-17, Chandigarh.

AND

Their Workman Shri G. S. Puri

APPEARANCES :

For the Employers—Shri R. L. Gupta with Shri N. K. Gupta.

For the Workman—Workman in person.

STATE : Chandigarh. INDUSTRY : Beas Project Power Wing

AWARD

Dated the 20th March, 1984

The Central Govt., Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act 1947, vide their Order No. L-42012(5)/80-D-II (B) dated the 23rd September 1980 read with S.O. No. S-11025(2)/83 dated the 8th of June 1984 referred the following Industrial dispute to this Tribunal for adjudication.

“Whether the action of the Management in terminating the services of Shri G. S. Puri, Ex-Work, Inspector, Beas Project Power Wing, Slapper, is justified? If not, to what relief the workman is entitled to?”

2. Today when the case came up for hearing the parties reported a settlement which was quite fair to the petitioner-Workman. Accordingly, on taking down their statements and hearing them, in the terms thereof, I hereby return a No-dispute Award with a direction to the Management to pay a consolidated amount of Rs. 1836 only (Rs. One thousand, eight hundred and thirty six only) to the petitioner workman in full and final settlement of his claim.

Chandigarh.

20-3-1984.

Sd/-

I. P. VASISHTH, Presiding Officer.

[No. L-42012(5)/80-D-II(B)]

New Delhi, the 6th April, 1984

S.O. 1322.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh in the industrial dispute between the employers in relation to the management of Bhakra Beas Management Board and their workmen, which was received by the Central Government on the 26th March, 1984.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL
CHANDIGARH

Case No. I.D. 6/80 (New Delhi), 99 of 1983 CHD

PARTIES :

Employers in relation to the management of Bhakra Beas
Management Board, Chandigarh.

AND
Their Workmen

APPEARANCES :

For the Employers—Sarvshri R. L. Kaith and N. S. Bawa.

For the Workmen—Sarvshri L. S. Sachdeva, Jagat Singh R. K. Singh and Rajinder Paul.

STATE : Punjab. INDUSTRY : Bhakra Beas Management Board.

AWARD

Dated the 22nd of March, 1984

The Central Govt. Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act 1947, vide their Order No. L-42011(14) 78-D.II(B) dated the 30th of January 1980 read with S.O. No. S-11025(2)/83 dated the 8th of June 1983 referred the following Industrial dispute to this Tribunal for adjudication.

"Whether the action of the management of Bhakra Beas Management Board in not paying Electricity Board Allowance to the employees, both work charge and regular, of Irrigation Wing and work-charge employees of Power Wing recruited after 1-11-66 when it is being paid to workcharge employees of Power Wing recruited before 1-11-66 and regular employees of power wing recruited after 1-11-66, of Bhakra Beas Management Board, is justified? If not, to what relief the workmen are entitled to."

2. According to the petitioner workmen Bhakra Dam was conceived and constructed to create Irrigation facilities for a number of Northern States by collection and storage of water from the river Sutluji, simultaneously it was to be processed and utilised, for the generation of Electricity also and that was how that on the completion of the Dam, Power Houses were constructed and a number of workmen initially engaged for the construction of the Dam were pressed into service for the raising of the Power Houses and installation of the connected machinery.

3. Before Re-organisation of the State of Punjab in the year 1966 all the rights and Liabilities of the venture vested in Bhakra Nangal Project. However, as a necessary consequence of the Re-organisation, its control was taken over by the Central Government who, latter on, created the Bhakra Beas Management Board and, thus, the Respondent Board assumed the over all charge of the employees as well as the Project.

4. It was pleaded that after the aforesaid Reorganisation all the employees who were working with the Punjab Electricity Board and were taken over by the Respd. Board, were given Bonus from the year 1966-1967 onwards and such Recipients included the Workcharge employees also. To be precise, the workmen employed in the Power Wing, including the Workcharge recruited before 1-11-66, started enjoying the facility of Bonus, which later on came to be termed as Electricity Board Allowance. So much so, that the Management recruited a significant number of Ad hoc Staff: who have not yet been allocated to any State or Board; and granted them the benefit of E. B. Allowance; similarly some of the staff of the Financial Adviser and Chief Accounts Officer were also accorded the same benefit. But in a highly discriminatory and arbitrary manner, the Board deprived the petitioner-Workmen (Workcharge) recruited after 1-11-66

in Power Wing and all those employed in the Irrigation Wing of the said facility, and did not respond favourably to their demand for parity with their counter parts serving in the Power Wing.

5. Thus there arose an Industrial dispute between the parties which could not be settled amicably despite the intervention of the A.L.C(C) and, hence the Reference.

6. Resisting the petitioners' claim on all counts, the Management questioned the propriety of the reference and denied the existence of any Industrial dispute. It was averred that the cause was not properly espoused and all the necessary parties were not impleaded. Elaborating their version, they disclosed that such an issue was raised at an earlier stage also but was dropped by the Workmen themselves. History of the Bhakra Dam was not disputed but it was propounded that the construction of the right Bank Power House was taken up simultaneously with the main Dam whereas the left Bank Power House was installed during the construction of the Dam.

7. As a necessary corollary, they pleaded that there were different sets of Workmen engaged in the construction of the Dam and the Power Houses, those working on the Dam belonged to the Irrigation Wing, whereas the workmen assigned to the Power House job were enrolled on the cadre strength of the Irrigation Wing. It was submitted that on re-organisation of the Punjab State in the year 1966, the Power Wing employees were allocated to the successor Punjab State Electricity Board (PSEB) or Haryana State Electricity Board (H.S.E.B.) whereas the employees working in the Irrigation Wing were allocated to the successor States of Punjab or Haryana, that the payment of Bonus to the workmen in the Power Wing was being made on the pattern of their respective parent Electricity Boards but the same could not given to the employees in the Irrigation Wing for the simple reason that it was neither a part of their service conditions nor was ever given to their counterparts still serving in the parent States.

8. As regard the constitution of the Respd. Board, it was denied that the Central Government had any direct or indirect control on the employees in any manner so as to be treated as their Employer even by remote fiction. On the other hand it was projected that the bulk of the employees engaged in the Irrigation Wing were drawn from the beneficiary states of Punjab and Haryana, and almost the entire lot of Power Wing employees were on loan from the PSEB or HSEB. It was conceded that the Respondent Board had engaged some Ad hoc employees against regular posts both in the Irrigation and Power Wings after 1-11-66 whose allocation to the respective States or Boards had yet to be finalised but it was explained that except in the matter of pension and gratuity all such employees working in the Irrigation Wing were governed by the Punjab C.S.R. whereas those working in the Power Wing were governed by the Punjab State Electricity Board Regulations.

9. Previous litigation pertaining to the grant of the E.B. allowance to the workcharge employees of the Power Wing recruited before 1-11-1966 was admitted but it was submitted that the matter had not yet been finally decided because the judgement of the Labour Court was under consideration of the Punjab and Haryana High Court in a Civil writ filed by the Management.

10. In short, the burden of their pleadings was that the working conditions of the employees serving in the Power Wing and the Irrigation Wing were entirely different and, thus, the petitioner workmen had no legal or moral right to claim parity in the matter of E.B.A. with those serving in the Power Wing.

11. The parties were taken to trial on the following issues framed by my learned predecessor :

- (i) Whether the reference is bad as alleged?
- (ii) Whether the reference is bad for misjoinder and non-joinder of necessary parties?
- (iii) As in the order of reference?

12. In support of their respective versions the parties adduced verbal as well as documentary evidence which I have

carefully perused and heard them at length. My issuewise discussion and findings are as follows :

ISSUE NO. 1

13. Management's contention that there was neither any existing nor apprehended dispute between the parties to require cognizance by the Appropriate Govt. for reference to the Tribunal is thoroughly misconceived because had it been so, the Management would have straightaway conceded to the Workman's demand for E.B.A. Similarly their contention that the dispute was not properly espoused, requires no serious consideration in view of the overwhelming majority of the petitioners' Union.

14. On behalf of the management, it was urged that according to the common case of the parties, the issue of Bonus had been raised by the Workmen at an earlier stage also, but on failure of the talks in the Conciliation proceedings before the Asstt. Labour Commissioner, the matter was dropped and no future steps were taken by them to seek judicial determination. From this circumstances the Management tried to build up a case of estoppel little realising that there was no express or implied admission of futility of their cause by the Workmen. At its worst, it can be inferred that their Union representatives had let them down and did not show the requisite diligence in pursuing the matter. But by no stretch of imagination it can be assumed that they had withdrawn it in favour of the Management or that the demand was given up for all the times to come.

15. I, therefore, find no impropriety or invalidity in the reference and, as such, answer the issue against the Management.

ISSUE NO. 2.

16. On behalf of the Management an attempt was made to demolish the reference on the theory of mis-joinder and non-joinder of parties as they would have the Tribunal believe that the Employer of the workmen working in the Irrigation Wing was the Chief Engineer Irrigation whereas, in the case of those working in the Power Wing, it was the Chief Engineer Generation who should have been impleaded because in their absence no effecting adjudication can be pronounced by the Tribunal. In the same sequence it was submitted that the Management of the SPMB had been wrongly impleaded through its Chairman.

17. In spite of seeming attraction the submission failed to carry conviction with me as the management appears to have lost sight of an important document filed on their own behalf on 8-8-1980. It consists of an extract from the Indian Govt. Gazette Notification No. B-523(2)/5B Chandigarh the 26th of June, 1972 published on July 15, 1972 (Asadha 24, 1894). Perusal thereof should leave no manner of doubt that the Security of the Board in the proper person to institute and defend all the legal actions on or behalf of the Board. Since both the Chief Engineers, Irrigation as well as Generation, are the functionaries of the Board, subordinate to the Chairman and the Secretary, therefore, their absence from the proceedings has absolutely no bearing on the face of the reference particularly when the Board has been properly impleaded through its Chairman. I, accordingly return the issue against the Management.

ISSUE NO. 3

18. The parties primarily concentrated their efforts to clinch the issue contained in the terms of reference which, for a convenient mode of appreciation, may be bifurcated in two parts. First portion relates to the question of parity between the Workcharge employees of the Power Wing recruited before and after 1-11-1966, whereas the second part pertains to the claim of the employees of the Irrigation Wing for equation with their counterparts serving in the Power Wing, for the grant of E.B. Allowance.

19. On behalf of the Management it was vehemently argued that even though B.B.M.B. may be an Industry within the limited scope of the Industrial Disputes Act, yet it can not be treated like an ordinary Commercial Establishment for the purpose of payment of Bonus or any other such concession in its lieu, because it has to discharge the dual function of storing water so as to create irrigation facilities and

produce Energy for supply to the participant States and Electricity Boards under the overall charge and guidance of the Central Govt. It was contended that since it was being run on a "no profit, no loss basis" with the dominant view to enhance the National Productivity, therefore, it was exempt from the Payment of Bonus Act 1966 also.

20. Next contention of the Management was that Power and Irrigation Wings were entirely separate and independent of each other, that they were headed by different Employers and contained different sets of employees who were drawn and recruited from distinct sources and since there was nothing in common between them, therefore, any question of parity between the employees of the two Wings was thoroughly misconceived.

21. Similarly they also tried to justify the wedge between the Workcharge employees of the Power Wing recruited before and after 1-11-1966 on the assertion that the parting of ways arose because of the Punjab Re-organisation Act 1966 by virtue of which the then Govt. of Punjab ceased to have control over the Bhakra Nangal Project, since it was taken over by the Central Govt. (Order Exb. P. 35) on 1-11-1966 and then handed over to the Bhakra Management Board on latter's constitution w.e.f. 1-10-1967 under Section 79(1&2) of the Act *ibid* (Notification Exb. W.38).

22. On a careful scrutiny of the entire available data and hearing the parties I am not inclined to sustain the Management's stand since they appear to have taken a myopic view on drawing and stretching some artificial lines of distinction between the employees.

23. For example, their effort to wriggle out of the issue on the pretext that they were running a national productivity Unit on "No loss no profit" basis is devoid of force particularly when on their own admission BBMB is an Industry; as conceded by their Law Officer. MW1 Shri N. S. Bawa during his cross-examination. Otherwise too, the very definition of Industry provided by Section 2(j) of the Act rules out the element of profit or loss as a necessary ingredient to determine the character of an Organisation as an Industry.

24. The main stress of the management had been on the theory of distinct identities of Power and Irrigation Wings for all intents and purposes firstly on the ground that they contained employees recruited and drawn from different sources, serving under various Employees and secondly that since they had different sets of working conditions for these employees, therefore, there was no question of equal treatment for the purpose of Bonus/E.B.A.

25. In my considered opinion the source of recruitment of staff in any particular Organisation, all by itself, is hardly a relevant factor to justify the discrimination. It has been the common case of the parties that to start with, the then Govt. of Punjab initiated and constituted the Bhakra Nangal Project as a multipurpose venture with the dominant purpose of storage of water to create the twin facilities of Irrigation & Power generation. To be precise, one particular Organisation was entrusted with two inter-dependent targets, even though it contained different sets of categories of employees. With the implementation of the Punjab Re-organisation Act, 1966, Bhakra Nangal Project gave way to the Bhakra Management Board by virtue of Section 79(6) of the Act *ibid*, which reads as below :—

"The Bhakra Management Board shall be under the control of the Central Govt. and shall comply with such directions as may from time to time be given to it by that Govt."

26. In other words it may be reasonably inferred that without disturbing the multipurpose nature of the Project, the management changed hands from one Authority to another whereas the Central Govt. became the ultimate depository of all the powers. A combined reading of Govt. notification and orders Exts. W.35 dated 1-11-1966 and W-38 dated 1-10-1967 should leave no manner of doubt that the BBMB had a common Employer for both the Wings whose existence was further recognised to facilitate a smooth, efficient and proper working of the entire Project, and, perhaps, that explains the admission of MW 1 Shri N. S. Bawa, Law Officer and MW/2 Shri R. I. Sharma, Asstt. Financial Adviser that if either of these two Wings were taken out of the Organisation,

it would not only lose its original shape and purpose but would also become lame.

27. In the same sequence a back reference may also be had to the earlier reported Gazette notification No. B-523(2)/5B Chandigarh 26th of June 1972 published on July, 15, 1972 (Asadha 24, 1894) which was issued by the Govt. of India to facilitate proper prosecution and defence of the legal actions on behalf of and against the BBMB. It may be worthwhile to note that this Notification did not specify that in case of any dispute arising in any particular Wing, the other Wing would remain unaffected or that the Power Wing litigation would be looked after by one particular individual whereas Irrigation disputes would be attended by somebody else. The very fact that the Central Govt. created one common legal entity to represent the entire Organisation goes a long way to show that it was being managed by one Employer, common to both the Wings.

28. The position thus emerges to the effect that the employees of both the Wings were serving under a common Employer and, as such, there should be some very strong rationale to justify the discrimination between the workmen of the two Wings, more so in the case of Workcharge employees, all serving in the Power Wing itself.

29. To have a little but fruitful deviation, when the Bhakra Nangal Project started, it was admittedly placed under the control of the then Govt. of Punjab, P.S.E.B. came into existence at a much later stage and so the allotment of the Power Wing employees to the P.S.E.B. was not such a development which could justify the distinction between them and the employees of the Irrigation Wing. Moreover even after the implementation of the Punjab Re-organisation Act, 1966 the respondent BBMB did not limit its options for new recruits for the Power Wing from the PSEB or HSEB alone, rather they had been engaging even more ad hoc employees from the open market, as should be evident from their written Statement and the deposition of NWI-Shri N. S. Bawa. Surprisingly enough, such type of new entrants were also given the facility of E.B.A. despite the fact that upto date they have neither been allocated to the PSEB nor to the HSEB. To put it in other words they will continue to be ad hoc employees of the Board but enjoy the facility of the EBA. Therefore, the contention of the Management that the persons working in the Power Wing had earned some vested rights towards the Bonus etc. in view of the grant of such concession in their parent service, sounds completely hollow because had it been so, there could be no justification in granting this facility to the newly recruited staff in the Power Wing.

30. From the cross-examination of Shri N. S. Bawa, it further appears that a number of technical trades in both the wings pertain to the same nature of duties; whereas the instances of "inter-se" transfers and assigning of duties from one Wing to the other Wing are also not uncommon. Significantly enough Sh. Bawa himself was primarily employed on the Irrigation side, but had been working with the Addl. Secretary of the Power Wing for quite sometime. It, thus, follows that in so far as the taking of work from the employees is concerned, the Management does not differentiate between them. Similarly Sh. Bawa conceded that all the Workcharged employees working in the Power Wing were governed by the same Standing Orders irrespective of their employment or recruitment on, before, or after 1-11-1966.

31. On behalf of the management it was submitted that according to the Statutory Rules framed by the Central Government under Section-97 of the Punjab Re-organisation Act, known as Bhakra Beas Management Rules, 1974, the Financial Adviser has to maintain separate accounts in respect of Irrigation & Power Wings as elaborated by MW-2. Sh. R. L. Sharma meaning thereby that these Wings could not be treated as "One Unit" in the matter of financial liabilities. I am afraid the Management have failed to appreciate that an Employer can legitimately divide his Organisation in a number of administrative units and, for the proper fiscal controls thereof, keep separate accounts for his convenience. But that does not mean that he can create any arbitrary distinction between the employees on that score alone. Other-

wise also Shri Sharma had limited role to play in the maintenance of finances and that was how that he could not help conceding that even though, right from its inception, the respondent Board was maintaining both the Wings for performing supplementary jobs, i.e. creation of Irrigation facilities and generation of Power; yet he was not aware of their actual working. He admitted that there were a number of common trades and at least since 1979 most of the facilities and allowances were common to the employees of both the Wings.

32. There is yet another perspective to the problem in the sense that according to the common case of the parties and the philosophy of Section 79(6) of the Punjab Re-organisation Act (reproduced here in before in Para No. 25) the Central Govt., is the patron saint of the Respd. Board and, presiding over the destiny of a progressive, society, it has already sanctioned a sort of ad hoc bonus to all its employees drawing salary up to a certain level. To be precise, a 'Babu' sitting in the cool comfort and cosy environments of an insulated Secretariat room is also blessed with extra monetary incentives; not in recognition of his hard work or hazardous service conditions, but by the very grace of a benevolent Employer in a Welfare State. In my considered opinion, it will be a cruel joke on the poor workers, who literally toil it out with their sweat and blood in psychologically sickening and uncongenial atmosphere, sometimes, hundreds of feet below the vast ocean like reservoir of accumulated water and the attendant mushroom of steel and concrete, if they were to be denied parity with their counterparts serving on the same site and under the same Employer on the monstrous plea that they were working in different departments or units.

33. Be that as it may, my aforesaid discussion thus boils down to the conclusion that there was no warrant or justification in the action of the management in creating a wedge between the Workcharge employees of the Power Wing recruited before and after 1-11-1966, as well as between the employees of the Power Wing and the Irrigation Wing in the matter of release of E.B.A. facility. I accordingly return the issue in favour of the Workman on sustaining their cause.

34. That directly confronts the Tribunal with the question as to from which particular date the Award should be implemented. On behalf of the Management, it was submitted that under the Scheme of Section 17-A of the Act, an Award is enforceable on the expiry of 30 days from the date of its publication in the Gazette and thus any direction for its retrospective effect would not only be against the spirit of the Statute but may also ruin the very economy of the project because of the huge financial implication. On the other hand the Petitioners contended that the Management had no justification to treat them differently from their counterparts of the Power Wing and since their action was void ab initio, therefore, they (Management) should be directed to make rectification by restoring parity right from the first day when they released the EBA to the Power Wing employees.

35. Logically speaking the Tribunal will have to take a balanced view of the situation, against the backdrop of all the attendant circumstances. According to the common case of the parties, the pre-dominant purpose of the Bhakra Beas Management Board was to serve the cause of Nation by taking care of the Irrigation and Power generation facilities. In other words it may be assumed to be a sort of a goose that lays the golden egg, and hence the wisdom lies in its preservation rather than in striking at its neck with the sheath of financial liabilities. If it were required to pay the arrears right from 1-10-1967, its very economy would be blasted off. Otherwise also we can not lose sight of the fact that the Workmen had raised this dispute at an earlier stage also in the year 1970 and then dropped it for want of diligence. It was only in late 1979 that they re-opened the issue by serving a strike notice necessitating the intervention of the Conciliation authorities and ultimate reference to the Tribunal. I, therefore, feel that the date of reference provides the crucial guideline for determining the "appointed day" because its postponement beyond that point would be like putting a premium on the tardiness of the Court proceedings, and, hence, I direct that the award shall be deemed to be effective from that particular date.

36. Thus to conclude with my aforesaid discussion on the various aspects of the matter as emerging from the records and the points raised before me, I return my Award in favour of the Workman, with the rider that it shall be deemed to be operative w.e.f. 30-1-1980 i.e. the date of Reference.

Chandigarh

Dated : 22-3-84.

I. P. VASISHTH, Presiding Officer.

[No. 1-42011/14/78/D.II(B)]

T. B. SITARAMAN, Under Secy.

New Delhi, the 11th April, 1984

S.O. 1323.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the Industrial Dispute between the employers in relation to the management of Chinakuri Colliery of M/s. Eastern Coalfields Ltd., P. O. Sundarchak, Distt. Burdwan and their workmen, which was received by the Central Government on the 4th April, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD
Reference No. 4/82

PARTIES :

Employers in relation to the management of Chinakuri Colliery of M/s. Eastern Coalfields Ltd., P. O. Sundarchak, Distt., Burdwan.

AND

Their workmen

APPEARANCES :

For the Employers—Shri B. N. Tala, Advocate.

For the Workmen—Shri N. N. Sinha, Vice-President of the Union.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 28th March, 1984.

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them U/s 10(1)(d) of the Industrial Disputes Act, 14 of 1947 has referred the dispute to this Tribunal for adjudication under Order No. L-19012(42)/81-D.IV(B) dated the 14th January, 1982.

SCHEDULE

“Whether the action of the Agent, Chinakuri Colliery of M/s. Eastern Coalfields Ltd., P. O. Sundarchak, Distt. Burdwan is not regularising S/Shri (1) S. P. Majhee, (2) R. N. Acharjee, (3) A. N. Sarkar, (4) S. Sarkar, and (5) M. M. Sarkar as Foreman (Electrical) with effect from 7th June, 1980 is justified? If not, to what relief are the workmen entitled?”

2. There are 5 workmen involved in this Reference. All of them were working as Asstt. Foreman in Grade C and their claim is for regularisation or promotion as Foreman in Technical Grade B.

3. Their case is that prior to 7-6-80 they were working as Shift Electrician Incharge in Supervisory and Technical Grade C since 1975 and were working as such as Chinakuri Colliery No. 1 & 2 Pits. It is stated that they were directed to work out the job of Foreman of the said colliery from early 1980, but their grade, pay and designation

remained unaltered and they were not regularised as Foreman inspite of several representations. It is also stated that the management finding that the demand of these workmen were quite justified the Production Manager recommended their cases for being promoted to the post of Foreman to the Agent of Chinakuri Colliery but no action was taken. It is submitted that these workmen are performing the job of Electrical Foreman and hence they should be given Grade B with effect from 7-6-80 when their case was recommended by the Production Manager.

4. It will, however, appear that during the pendency of this Reference a Departmental Promotion Committee (D.P.C.) was held and all the concerned workmen excepting Sri A. N. Sarkar were promoted to the post of Foreman in Technical Grade B, but Sri A. N. Sarkar was not promoted and he is still working in Grade C. According to the workmen this has been done due to his trade union activities as Sri A. N. Sarkar is a member of the Executive Committee of the Union and he has been victimised.

5. The case of the management on the other hand is that these workmen were all along working as Asstt. Foreman in Technical Grade C and they never performed the duties of Foreman as alleged. In their rejoinder the management has stated that so far the case of the workmen that the Production Manager had recommended their cases for promotion to the post of Foreman is concerned, that is an internal document and on that recommendation no promotion was given and that on the basis of said recommendation the concerned workmen cannot claim any promotion. It is also stated by them that prior to 1982 there was no post of Foreman in the colliery in question and in the year 1980 norms of promotion was prepared and thereafter on the basis of the said norms vacancy arose in the two collieries and on the recommendation of the D.P.C. all the concerned workmen excepting Sri A. N. Sarkar were promoted in Technical Grade B as Foreman, but Sri A. N. Sarkar was not found fit and hence he was not promoted. It is also their case that in spite of the order of promotion all the concerned workmen did not accept the same due to pendency of this Reference.

6. On the above grounds it is prayed that the Reference be decided in favour of the management.

7. The point for consideration is as to whether the action of the management in not regularising the concerned workmen as Foreman (Electrical) with effect from 7-6-80 is justified. If not, to what relief they are entitled.

8. It will appear that the whole case of the concerned workmen hinges on the alleged recommendation dated 31-7-81 (Ext. W-3) made by the Production Manager, Chinakuri Mine No. 1 to the Agent of the said colliery. It may, however, be stated that there are two mines, Mine No. 1 & 2 in Chinakuri Colliery. Sri S. P. Majhee, Sri R. N. Acharjee and Sri M. M. Sarkar are admittedly working in Mine No. 1 while Sri A. N. Sarkar and Sri S. K. Sarkar are working in Mine No. 2. During evidence the management has examined 3 witnesses out of whom MW-1 is Engineer in Mine No. 1 and MW-2 is Engineer of Mine No. 2. MW-3 is the Agent of Chinakuri Mine. Their evidence is that both the two mines are separate from one another and they have got separate Managers and according to them Sri R. N. Gupta who made the recommendation Ext. W-3 for promotion of these concerned workmen to the post of Foreman was the Production Manager of Mine No. 1 only and he had no authority to make any recommendation for Sri A. N. Sarkar and Sri S. K. Sarkar who are working in Mine No. 2 since the beginning. All the above 5 workmen are the workmen concerned in this Reference. It will appear that during evidence it has also been taken by the management that the said recommendation Ext. W-3 is not a genuine document. But this is clearly an after thought. There is reference of this recommendation by the workmen in their very W.S. The management in their rejoinder never contended that this is not a genuine document. Their witnesses have simply come to say that the original of this document was not traceable. Ext. W-3 is a photostat copy of the recommendation. Further in the written statement of the management it is nowhere stated that Sri R. N. Gupta who made the recommendation had nothing to do

with Mine No. 2. The simple case of the management in their written statement is that this is an internal document and the management will make submission on it during the course of hearing. This does not mean that this is not a genuine document. As against this, both the workmen witnesses examined in this case have stated that Sri R. N. Gupta was Incharge of both the mines at that time.

9. Considering the above circumstances, I hold that Ext. W-3 is a genuine document and by this document the Production Manager recommended that all the concerned workmen who were working in Mine No. 1 & 2 should be promoted to the post of Foreman. He also stated that these workmen were working very sincerely and they were very competent and knew their jobs very well. He also certified that they are outstanding in their work and their efficiency was known by all the Officers of Group as well as of the Area. Thus the Production Manager under whom these workmen worked knew about their capacities and ability and recommended their names.

10. It will however appear that no action was taken by the management on this letter dated 7-6-80 and the concerned were not given any promotion. The plea of the management is that in the year 1980 there was no post of Foreman in the two mines and hence no promotion was given. This is also proved from the documents on the record. Ext. M-2 is the Staffing Pattern of Electrical & Manual personnel in the Eastern Coalfields Ltd. which was issued by the Eastern Coal field and is dated 26-8-80. It was forwarded to all the Agents of Eastern Coalfields by the Area Manager, Dishergarth Area by letter dated 6-1-81. This Staffing Pattern would show how many posts in different categories were required for each mine of Eastern Coalfields including the two mines in question. All the management witnesses have stated that on the basis of this Staffing Pattern posts were created in the two mines also and those posts were to be filled up by promotion for which a D.P.C. was constituted and on the recommendation of the respective mine promotions were given. The D.P.C. papers are Ext. M-4.

11. So far as Mine No. 1 is concerned, it will appear that the 3 concerned workmen Sri S. P. Majhee, Sri R. N. Achurjee and Sri M. Sarkar who were working in that mine were given promotion as Foreman in Technical Grade B with effect from 29-4-82. For Mine No. 2 the D.P.C. paper would show that names of 5 persons were recommended for promotion as Electrical Foreman from Asstt. Foreman category C. They are Sri S. K. Sarkar, Sri J. N. Dutta, Sri Kanhai Chatterjee, Sri A. N. Sarkar and Sri Ashok Mishra. Their bio-data is also given there. The D.P.C. promoted Sri S. K. Sarkar, Sri Kanhai Chatterjee and Sri J. N. Dutta as there were only three vacancies in Category B (Foreman) in Mine No. 2. The D.P.C. paper would further show that originally the name of Sri A. N. Sarkar one of the concerned workmen who has been superseded had been recommended for promotion by the D.P.C. but subsequently his name has been penned through and the name of Sri J. N. Dutta has been written. According to the workmen Sri J. N. Dutta & Sri Kanhai Chatterjee were much junior to Sri A. N. Sarkar but they were given promotion and Sri A. N. Sarkar was left out because he was a member of the Executive Committee of the Union and he has been victimised.

12. It is, therefore, to be seen as to whether the recommendation made by the D.P.C. was fair and proper or not. MW-3 was one of the member of the D.P.C. In paragraph 4 he has stated that according to the view of the Committee Sri J. N. Dutta was senior in age and length of service and was more competent and so he was considered for promotion. But this fact is not borne out from the D.P.C. papers. It will appear that Sri A. N. Sarkar joined the management in 1960 as Electrician Incharge but MW-3 has further stated that Sri J. N. Dutta was working in much junior grade to him. The bio-data given in the D.P.C. would show that Sri A. N. Sarkar had passed all the 8 parts of Wiremans' Permit. Sri J. N. Dutta had passed only 5 parts and Sri Kanhai Chatterjee passed only 2 parts but both of them were given promotion. But Sri A. N. Sarkar was left out. Further in Category C Sri A. N. Sarkar was working for 15 years while Sri J. N. Dutta was working in that category for 9 years only.

Promotion was to be given from Grade C to B and the length of service in Grade C was to be considered. Thus from the very paper of the D.P.C. it will appear that Sri A. N. Sarkar had more length of service in Category C and was more experienced than Sri J. N. Dutta and Sri Kanhai Chatterjee. There is no paper to show that Sri J. N. Dutta was more experienced as stated by MW-3. Further Ext. W-3 is an ample proof of the fact that the work of concerned workman including Sri A. N. Sarkar was outstanding and they were very competent and knew their jobs very very well. Thus from this document it is clearly proved that in spite of better qualification and more experience and ability Sri A. N. Sarkar was superseded by the D.P.C. which is highly illegal and unjustified.

13. Though there is no pleading but the management has filed carbon copy of a chargesheet Ext. M-6 dated 14-5-81 alleged to have been issued by the management against Sri A. N. Sarkar. This chargesheet simply shows that on a particular date Sri Sarkar had left his section for some time. There is no evidence as to what action was taken on this chargesheet nor there is any evidence to show that it was ever served on Sri A. N. Sarkar. Sri Sarkar has stated that no punishment was ever inflicted on him. The alleged chargesheet by itself therefore cannot go to show that Sri A. N. Sarkar is in any way incompetent. Ext. M-7 is a memo dated 22-9-81 said to have been issued by the management against Sri Sarkar calling for some explanation from him. But this is also a chit of paper on which no action was taken nor there is anything to show whether it was ever served on the concerned workman. These two documents thus are like waste paper and on this Sri Sarkar should not have been superseded. Further MW-3 who was a member of the D.P.C. has nowhere stated that these two documents had been considered by the D.P.C. while considering the case of Sri A. N. Sarkar. The management has no doubt filed authorisations Ext. M-3 & M-5 series to show that the concerned workmen were all along authorised under Clause 36 of the Coal Mines Regulations to work as Asstt. Foreman so they never worked as alleged by them. But these documents are immaterial because in fact the management was treating them as Asstt. Foreman and so authorisation was issued accordingly. These documents are not helpful to the management at all.

14. Considering these, I hold that though the concerned workmen are not entitled to be promoted or regularised to the post of Foreman in Technical Grade B with effect from 7-6-80 as there was no post in existence then but they are entitled to get promotion with effect from 29-4-82 in Technical Grade B when vacancy arose after the Staffing Pattern was introduced. It is also held that the supersession of Sri A. N. Sarkar in this promotion was highly illegal and improper and Sri A. N. Sarkar has been victimised.

15. Under the above circumstances the promotions made by the management with effect from 29-4-82 is set aside and the management is directed to consider the case of Sri A. N. Sarkar and promote him along with others. Consequently all the concerned workmen so promoted will be entitled to get Grade B with effect from 29-4-1982 with difference of wages from that date.

16. The award is passed accordingly.

J. N. SINGH, Presiding Officer
[No. L-19012(42)81-D.IV(B)]

New Delhi, the 11th April, 1984

S.O. 1324.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of J. K. Ropeways of M/s. Eastern Coalfields Ltd., P.O. Kajoragram, Distt. Burdwan and their workmen, which was received by the Central Government on the 4th April, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 34/82

PARTIES :

Employers in relation to the management of J. K.
Ropeways of M/s. Eastern Coal field Ltd. Kajoragram,
Dist. Burdwan.

AND

Their workmen.

APPEARANCES :

For the Employers—Shri N. Das, Advocate.

For the Workmen—Shri N. Laik, Advocate.

INDUSTRY : Coal STATE : West Bengal

Dated, the 24th March, 1984 /

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them U/s 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947) has referred the dispute to his Tribunal for adjudication under Order No. I-19012(84)/81-D.IV (B) dated the 17th April, 1982.

SCHEDULE

"Whether the action of the management of J. K. Ropeways of M/s. Eastern Coalfields Ltd., P. O. Kajoragram, Dist. Burdwan in not giving protection of wages to Shri Ambika Lohar, Shri Sukumar Chand, Jailal Gorai, Blacksmiths while converting them from piece-rate to time-rate with effect from 26-10-1980 is justified? If not, to what relief are the concerned workmen entitled?"

2. The case of the concerned workmen is that they were working as piece-rated workers (tub repairers) at Ghanashyam Colliery and thereafter they were transferred to J. K. Ropeways as per requirements of the management where they were employed as Blacksmiths and were put in time-rated job. It is stated that these workmen requested the management to fix their wages at their new place of work while giving them protection of wages as they were suffering the loss. It is also stated that the earnings of the last six months of the workers were sent by the Agent, Ghanashyam Colliery, to the Sr. Personnel Officer, J. K. Ropeways, but the management of J. K. Ropeways failed to protect their wages. It is submitted that they should be given protection of wages with effect from 26-10-1980 the date their transfer to J.K. Ropeways.

3. The defence of the management, however, is that these workmen were previously working as tub repairs on piece-rate basis at Ghanashyam Colliery but they became surplus and the management took a decision to transfer them to other collieries. It is stated that the installation No. 2 of J. K. Ropeways is quite close to Ghanashyam Colliery and there were a few vacancies in the post of Bucketman/Helper Attendant and in other jobs there and therefore out of the surplus man-power of Ghanashyam Colliery 22 persons including the three concerned workman approached the management for their transfer to J. K. Ropeways because they had their residence in the colliery quarters at Ghanashyam Colliery and they wanted to take advantage of the residence and so they also gave a written undertaking that they are not prepared to work as time-rated workers in the new establishment.

4. It is submitted that on the basis of such representation the concerned workmen were transferred to J. K. Ropeways and it was clearly specified that they will draw Category II wages in time-rate there. Subsequently they were placed in Category III and the concerned workmen accepted the said transfer on the said terms without any whisper and protest and in due course when they were required to work as Blacksmith they were paid difference of wages of time-rate in Category IV. It is also submitted that their earnings in Category II workers in time-rate was not less than what they were earning as piece-rated worker in Ghanashyam Colliery and this transfer was made on the undertakings

given by the concerned workman, hence they are not entitled to any relief.

5. The point for consideration is as to whether the action of the management in not giving protection of wages to the concerned workman while converting them from piece-rate to time rate with effect from 26-10-1980 is justified. If not to what relief they are entitled.

6. The management has filed the wage sheets Exts. M-1 to M-1/5. Ext. M-2 is the order dated 24-10-80 showing that 22 workmen of Ghanashyam Colliery including the concerned workmen were transferred to J. K. Ropeways in different capacities with a direction that they will draw Category II wages there. MW-1 is the Bill Clerk in Ghanashyam Colliery and he has proved the wage sheets in question. He has also stated that the concerned workmen were transferred to J. K. Ropeways as they were surplus and J. K. Ropeways were in need of some labourers. MW-2 is the Welfare Officer who has stated that on ground of surplus 22 persons were transferred to J. K. Ropeways and the concerned workmen gave undertakings to work in J. K. Ropeways without claiming any protection of wages. Similar is the evidence of Manager MW-1 of Ghanashyam Colliery. He has stated that the workmen concerned along with others opted for Ropeways and they were transferred accordingly. According to their evidence the concerned workmen had got their quarters in Ghanashyam Colliery and as the Ropeways in question was quite close to it they preferred to remain in the colliery quarters and opted for this transfer. WW-1 is one of the concerned workman and he has admitted that he along with other 2 concerned workmen are still residing in the quarter of Ghanashyam Colliery.

7. The management has filed Exts. M-3 to M-3/2 which are said to be the undertakings given by the concerned workmen for this transfer. In the undertakings it is stated that they agreed to accept the wage of Bucketman in Cat. It is not shown by them that their wages has been reduced. This they addressed to the Agent, Ghanashyam Colliery. WW-1 in his evidence, however, has stated that they did not give any such undertaking and that the alleged T.I. on these undertakings are forged.

8. But it may be stated that the plea that the concerned workmen had given such undertakings in writing was taken by the management in their written statement itself, but the workmen never filed any rejoinder that they never submitted any such undertaking nor they put their thumb impression. It is only during the hearing of the case that such defence was taken. If the concerned workman would not have given such undertakings then they must have filed such rejoinder soon after the filing of the written statement by the management to the effect that no undertaking was ever given by them in writing.

9. The learned Advocate for the workmen has attached these undertakings also on the ground that below the thumb impression no endorsement has been made, but it was not necessary to make any endorsement. There is no reason as to why the management will forge these undertakings. It is clear that the concerned workmen were transferred to J. K. Ropeways and they gave the undertakings that they accepted the transfer and wages fixed by the management vide Ext. M-2 and they shall not claim for any pay protection.

10. In view of the above undertakings the concerned workmen cannot now claim any pay protection. Further it is not shown by them that their wages has been reduced while putting them in time-rated job. According to the management there has been no deduction of wages of the concerned workmen and they have also been given difference of wages while working as Blacksmith.

11. Considering these, I hold that the action of the management in not giving pay protection while converting the concerned workmen from piece-rate to time-rate is justified. Consequently the concerned workmen are not entitled to any relief.

12. The award is passed accordingly.

J. N. SINGH, Presiding Officer

[No. L-19012(84)/81-D.IV (B)]

New Delhi, the 12th April, 1984.

S.O. 1327.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the management of Sodepur 9/10 Pits Colliery of Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on the 5th April, 1984.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 69 of 1978

PARTIES :

Employers in relation to the management of Sodepur 9/10 Pits Colliery of Eastern Coalfields Ltd., Dishergarh (Burdwan)

AND

Their Workmen.

APPEARANCES :

On behalf of Employers—Mr. P. P. Ginwalla, Counsel with Mr. M. N. Kar, Advocate and Mr. P. N. Goswami, Senior Personnel Officer.

On behalf of workmen—Mr. S. Roy, Advocate.

STATE : West Bengal

INDUSTRY : Coal Mines

AWARD

By Order No. L-19011(8)/77-D.IV (B) dated 1st August, 1978, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Sodepur Sub-Area of Eastern Coalfields Ltd., P. O. Dishergarh, District Burdwan in denying employment to the 71 casual wagon loaders as mentioned in the annexure with effect from 8-10-75 is justified? If not, to what relief are the concerned workmen entitled and from what dates?"

ANNEXURE

S. No. Name

1. Chandar Harijan
2. Jagannath Harijan
3. Liakat Ali
4. Baliraj Harijan
5. Shankar Gope
6. Ram Gulam Paswan
7. Bipin Bouri
8. Suraj Beli Harijan
9. Amir Mia
10. Subdul
11. Ali Mohammad
12. Chandandeo Paswan
13. Akbali Husan
14. Rajman Harijan
15. Ram Achal Harijan
16. Ram Kishun Show
17. Ram Sewak Mallah
18. Gulob Chauhan
19. Moti Das
20. Doman Mahato
21. Sukhari Show
22. Jadunandan Mahato
23. Ramjee Bhagat
24. Ramjee Das
25. Shwnandan Das

26. Dukhi Buiya
27. Birju Show
28. Bhagwat Paswan
29. Kaleswar Paswan
30. Ramsevak Paswan
31. Shyamssunder Thakur
32. Sree Ram Beldar
33. Meghu Chauhan
34. Jhari Ram
35. Achhay Das
36. Ballu Harijan
37. Basant Harijan
38. Ramsundar Harijan
39. Chauthi Turaha
40. Payarelal Harijan
41. Siwachand Koiri
42. Shiwmurat Harijan
43. Suleman Mia
44. Bhiraju Yadav
45. Baderi Rajwar
46. Sadhu Paswan
47. Munilal Beldar
48. Mahendra Bhuia
49. Binod Bhuia
50. Amirchand Rajak
51. Baijnath Bhuia
52. Ramesh Dusad
53. Sitaram Cbaudhury
54. Paltu Yadav
55. Kashi Show
56. Bilas Paswan
57. Awdesch Paswan
58. Ramnandan Paswan
59. Prabhu Tantl
60. Ramanandan Paswan
61. Baramdeo Thakur
62. Kedar Paswan
63. Baijnath Paswan
64. Ram Lagon Paswan
65. Ram Charan Paswan
66. Ram Sundar Harijan
67. Ramdeo Nunia
68. Akali Bhuiyal
69. Alakh Paswan
70. Sitaram Harijan
71. Bashdeo Paswan

2. It clearly appears from the terms of the reference that the concerned 71 workmen were casual wagon loaders of Sodepur sub-area colliery (pits 9 and 10) and that they were denied employment w.e.f. 8th October, 1975. Their case was taken up by the colliery mazdoor sabha, Asansol. In order to appreciate the points raised in this case by the management, it will be necessary to state some relevant facts in this connection. Ext. M-1 dated 13-8-75/19-9-75 which is a letter from the General Secretary of the Union to the manager of Sodepur pits 9 and 10, states that the workers of Sodepur pits 9 and 10 has organised them under the Colliery Mazdoor Sabha and had formed an executive committee to attend their day to day business as well as functioning as bargaining agent of theirs. The names of the members and office bearers of the said executive committee were mentioned in that very letter expressing the hope that it will help betterment of industrial relation and redressal of workers' grievances in that colliery and the hope that the management will extend cooperation to that committee for better employer employee relation.

3. The second fact as per case and evidence of the management is that prior to 1 May 1974 the wagon leading of Sodepur 9/10 pits colliery was done by contractors and on and from 1-5-1974 the management abolished the contract system.

for wagon loading and started making payments to the wagon loaders of the contractor or contractors directly from the colliery pay counter under the supervision of the welfare officer and audit clerk of the colliery concerned pending finalisation of the list of wagon loaders working under the contractors by the screening committee as per actual requirement on the basis of average despatch of the coal of the colliery concerned. It has been asserted that the said wagon loaders were never employed by the company, that they were employees of the contractor, that there was never any relationship of employer and employee between the company and the persons named in the schedule to the reference and hence the question of denying employment on and from 8-10-1975 does not arise.

4. The third fact to be noted in this connection is that according to the management the contract system was abolished w.e.f. 1st May 1974 and thereafter a strength of 401 workmen was sanctioned for Sodepur Colliery; that the strength was arrived at by taking into account the supply and loading of wagons and production of coal and despatch and it was decided that the committee will enquire into the length of service of the workers and interview them personally, physically check up their attendance and these people were assembled on various jobs for such checking, that the committee constituted of representatives of the functioning unions of Sodepur Colliery, that the unions' representatives of C.M.U. (INTUC), CMS (HMS), Sri S. R. Mitra, HMS Union and Sri Madhu Benerjee of W.B.K.M.S. (UTUC) were present in the meeting of 1st August 1975. It is said that in that meeting the norms of selection of the workers for enrolment as casual wagon loaders were laid down Ext. M5 dated 1-8-75 is the minute of that proceeding. MWI Amitava Sinha the then Senior Personnel Officer who was present in that meeting has also deposed about these matters. It is further said that a list of workers (Ext M-6) for the purpose of taking them on roll was prepared in 40 pages as decided in the meeting; that the representatives of the union who were present in the meeting signed all the papers on each page Sri Ginwalla has submitted that the screening was done in July and August 1975 but mostly in August, 1975. He has placed Ext. M7 the list of 401 persons who were selected by the Screening Committee. He pointed out that the Colliery Mazdoor Sabha was not working at that particular time and that all the unions who were functioning at Sodepur Colliery at that time had themselves volunteered for doing the screening job to finalise the issue once for all, that they approached the management to fix up the strength of wagon loaders at Sodepur Colliery and that they also were members of the Screening Committee.

5. It was argued by Sri Ginwalla for the colliery management that this union was not in existence at the time of screening (came into existence on 19-9-75) and that the management had talked with all the unions of the colliery then in existence, that a Screening Committee was formed and that in July and August 1975, 401 persons were employed (see Ext. M18) but these 71 were not taken. It is submitted that all the unions then in existence participated in the matter of screening which was over in August 1975 and that 401 persons were taken as per norms and procedure laid down by the screening committee (see Ext. M-5). In my opinion the argument has no merit. This union was in existence from long before. The management did not raise this question at earlier stage, not even during discussion with them. The executive committee was formed prior to the stoppage of work. The validity of the reference is to be judged on the facts as they stand on the date of the reference and not earlier. The union, therefore, had locus standi to espouse the cause of the concerned workmen. Anyway the question of employment of the workmen concerned cannot be left at the mercy of those unions. The main question is whether on principle of legal justice these persons also should have been employed. If they ought to have been employed, the then unions had no right to deprive them of their employment. They were not acting on their behalf. They voluntarily took part only in the screening. The concerned workmen had not given these unions any authority to negotiate for them. I am, therefore, of the opinion that the participation of the then unions cannot affect the right of the concerned workmen to employment. Moreover, the Colliery Mazdoor Sabha was no party by

the screening committee and this unions is not bound by the action of these unions. It will not be out of place to mention here the observations made in *Jhagrabhaq Collieries (P). Ltd. v. Shri G. C. Agarwal*, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jabalpur and others 1975 1 LLJ 163(SC), Sarkaria, J., speaking for the Bench observed that :

"an implied agreement by acquiescence, or by conduct such as acceptance of a benefit under an agreement to which the worker acquiescing or accepting the benefit was not a party, being outside the purview of the Act, is not binding on such a worker under sub-s. (1) or under sub-s. (3) of S. 18. It follows, therefore, that even if 99% of the workers have impliedly accepted the agreements arrived at by drawing V.D.A. under it. It will not—whatever its effect under the general law—put an end to the dispute before the Labour Court and make it functus officio under the Act."

6. It was next argued by Sri Ginwalla that they were piece-rated employees of the contractor and not of the colliery management, that a contractor can bring 20 men, 30 men or 40 men at different times on different dates and all of them cannot be the employees of the management. It was pointed out that in Ext. M-10 dated 3-2-1973 which bears the signature of the contractor on its back, there is no reference to the number of persons employed by the contractor and it is not known when they had been employed; that the sub-area manager informed by letter 24th April 1975 (Ext. M-3) that they were contract labour, that Ext. M-6, read with M-9 shows that some of them had worked for 1 year, some 1 year 3 months, some 1 month, some 2 months some 4 months and some only for 2 days under the contractor; it was also pointed out that only for a short period of about 16 months between the abolition of contract system (1-5-74) and the screening (July and August 1975) they had worked under the colliery management, that they want another employment under the colliery management which cannot be done. Mr. Ginwalla further said that the management had however, talked with this union also (vide Ext. W-2 and W-4); that the list was checked and the unions gave a list of 93 persons (Ext W-10 dated 2-11-76), W.W.I. Sunil Sen, the General Secretary has also spoken of the discussions between them Sri Ginwalla submitted that the management had all along acted fairly and that no injustice had been done to the concerned workmen. In my opinion the discussion with the union is not of much importance because it was not fruitful and the dispute still continued. The main argument of Sri Ginwalla is that the concerned workmen were not the employees of the management that they were employees of the contractor and hence the colliery management was not bound to take them in employment. He has cited two cases of the Supreme Court for the purpose of supporting his contention. In *Dharangadhra Chemical Works Ltd. Vs State of Saurashtra & others*, 1957—1 LLJ 477; AIR 1957 SC 264 it was observed :

"The principle which emerge from these authorities is that the prima facie test for determination of the relationship between master and servant is the existence of the right in the master to supervise and control the work done by the servant not only in the matter of directing what work the servant is to do but also the manner in which he shall do his work, or to borrow the words of Lord Uthwatt at p. 23 in *Messey Docks and Harbour Board v. Coggins & Griffith* (Liverpool). [1947] 1 A.C. 1, (23); "The proper test is whether or not the hirer had authority to control the manner of execution of the act in question."

In *Workmen of Dimakuchi Tea Estate v. Dimakuchi Tea Estate* AIR 1959 SC 353 : 1958—1 LLJ 500, the Supreme Court considered the question as to whether the literal construction of the expression 'any person' used in the definition of 'industrial dispute' should be held impermissible despite the wide amplitude of these words and the court evolved a test of communicating of interest of the workmen of the establishment with the concerned workmen. The Supreme Court gave a reasonable meaning to the words 'any person' consistent with the object of the Act and also of

the other parts of the definition, itself. It was stressed that the person with respect to whom a dispute is raised by the workmen must be one in whose employment, terms of employment or conditions of labour, the workmen as a class have direct and substantial interest though he need not be, strictly speaking, a workman within the meaning of Sec. 2(s) of the Act. He cannot be completely an outsider. He cannot be any and every person of the world. It is thus clear that those decisions are of no help to the management. They do not apply to the facts of the present case. The real principle which will be applicable to the instant case is to be found in *Hussainbhaj, Calicut v. Alath Factory Thozhilali Union, Calicut and others*, 1978-II LLJ 397(SC). In that case it was observed:

“Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship as contracted is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different paper arrangement, that the real employer is the Management, not the immediate contractor.”

Undoubtedly in the instant case the concerned casual wagon loaders rendered services for the business of the colliery management. There is no material on record that they worked elsewhere. It is an admitted fact that at least for about 16 months, that is, in between 1st May 1974 and August 1975 they exclusively worked as direct employees of the colliery management. Admittedly there was no contractor during that period. The reference also proceeds on the basis that they were casual wagon loaders and were denied employment w.e.f. 8th October 1975. Reference does not raise the issue as to whether or not they were employees of the colliery management. Even if they are assumed to be employees of any contractor, the principal employer, I think, will be the colliery management, not the immediate contractor. Hence the relationship of employer and employee did exist. It is needless to say that in cases of loading and unloading of the wagons even the casual wagon loaders are not strictly, speaking, casual labour. The relationship of employer and employee does exist between them and the management; see the cases of *Vegoils Pvt. Ltd. v. Workmen*, 1971 II LLJ 567 and *Calicut Mordum Sng. & Wvg. Mills v Industrial Tribunal*, 1977, LAB IC 1673 Thus the point has no force.

7. Mr. S. Roy argued that the concerned 71 workmen never worked under any contract even prior to 1st May 1974—the date of abolition of the contract system that they were company's workers all through. He submitted that neither during discussions (Exts. W-2 and W-4) nor in reply to their letters, the company ever said that they were contract labour. He drew my attention to the evidence of MW 1 Amitava Sinha in cross-examination: “I am not aware if the management ever raised the question that the workmen concerned were not the workers of the company either in the reply to the union's letter of in the joint discussion”. He further urged that no agreement in writing of any sort with any contractor had been produced and that even Sarjoo Prasad who was said to be the contractor was not examined in this case. He also said that Sarjoo Prasad himself was a workman and was also working in the company as admitted by MW 1 in cross-examination at page 6 of his deposition. He therefore contended that Sarjoo Prasad was merely a name-lender and not a genuine and independent contractor. He also submitted that the attendance register had not been produced by the management. On the other hand Sri Ginwalla contended that wagon loading was being done by the contractors in all the collieries of the Chinakuri sub-area including the Sodepur Colliery prior to 1-5-1974, that the contractor used to take money from the company on the basis of the wagon loaded by the workers and wages were paid by the contractor to their own employees. He drew my attention to the notice (Ext. M-2 dated 22-4-1974) issued to the contractors when the contract system was stopped to Ext. M-3 a letter by the sub-area manager to the Managing

Director informing about the abolition of the contract system; to the wage sheets (Ext. M-4) to show as to how the wages were paid to the workers and also to Ext M-2A addressed to Sarjoo Prasad as contractor. The evidence of MW 1 Amitava Sinha was also placed. To me it seems that Sarjoo Prasad was not an independent contractor. He was admittedly a loading clerk also. He was working in the company for a long time in some capacity and later in the capacity of loading clerk. The evidence of MW1 shows that he was working in dual capacity. Therefore there is substance in the contention of Mr. S. Roy that Sarjoo Prasad was merely a name-lender. However, even if he was not, I have already said that in the facts and circumstances of this case, the concerned workmen were the employees of the colliery management, it being the principle employer. The contention of Sri Ginwalla is rejected.

8. Sri Roy next argued that new persons had been appointed by the management and hence the contention of the management to the effect that they required the services of only 401 workers was not correct. He drew my attention to Ext. W-5 dated 21-7-1976 in which the names of 18 such persons have been mentioned. On the other hand Sri Ginwalla argued that these persons were not new persons but they were out of the 401 persons screened. He has also referred to the old serial numbers of the screened list. I think, Mr. Ginwalla is right. But this matter has no relevance in regard to the issue involved in this case. Mr. S. Roy also argued that there was no genuine screening, that even if there was screening all persons had not been screened and some had been left out. He referred to item No. 7 of Ext. W-4 dated 6th May 1976. In my opinion this matter also is of not of any consequence.

9. Sri Ginwalla argued that that the management has a right to organise its business and it can employ persons only as per its requirement. Suffice to say that no such question arises in this case. It is not a question of any right to organise its business. It is a case of denying employment to its own employees. It is a case of improper stoppage of work. The contention is rejected.

10. From the above it is clear that the concerned workmen must be held to be employed of the colliery management and they must now be re-employed by the management. I think that the denial of employment w.e.f. 8th October 1975 was improper. But again the question of back wages arises. In my opinion no back wages should be given to them. After all the management had acted under the bona-fide impression, though wrong, that they were justified in doing so. They had admittedly consulted several unions then in existence in that colliery and it was with their consent that 401 persons were taken after screening. There was no mala-fide intention on the part of the management. They did not violate any legal principle. Their act of denial of employment cannot be characterised as malicious in the circumstances of this case. The wrong happened because of bona-fide wrong impression that consultation with the then unions and the screening with their consent was enough. They even discussed the matter in good spirit with the Colliery Mazdoor Sabha. So they had no intention to do any injustice to these persons. I, therefore, disallow back wages to them for the past period.

11. Before I part with this award I may mention that Sri Ginwalla pointed out that 18 persons out of the 71 workmen had already been taken by the management and only 53 now remain to be employed. If so, then the remaining 58 should be re-employed.

12. In the result my concluded award is that the action of the management of Sodepur sub-area of the Eastern Coalfields Ltd., P.O. Dishergard in the district of Burdwan in denying employment to the 71 (Seventy-one) casual wagon loaders as mentioned in the annexure to the schedule of the reference of 8th October 1975 is not justified. It follows that they are entitled to be re-employed and I direct that they must be re-employed just after one month of the publication of this award. They shall be deemed to be employed from that day. If 18 of them have already been then the remaining 53 (fifty-three) also must be employed. Their service conditions shall be exactly of the same nature as those of the 401 persons already taken. They shall be entitled to wages and other service benefits after and from the expiry of the said one month in

the like manner as the 401 (four hundred one) workers are getting. Back wages are refused for the reasons given above.

Sd/-

Dated : Calcutta, 28th March, 1984

M. P. SINGH, Presiding Officer,
[No. L-19011(87)/77-D.IV(B)]
S. S. MEHTA, Desk Officer.

New Delhi, the 12th April, 1984

S.O. 1326.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the management of Singareni Collieries Co. Ltd., Bellampalli Division II, and their workmen, which was received by the Central Government on the 4th April, 1984.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) HYDERABAD

Industrial Dispute No. 3 of 1981

BETWEEN

Workmen of Singareni Collieries Company Limited,
Bellampalli Division-II, Adilabad District (A.P.).

AND

The Management of Singareni Collieries Company Ltd.,
Bellampalli Division-II, Adilabad District (A.P.).

APPEARANCES :

Sri B. Ganga Ram, Chief Vice President, Singareni Collieries Workers Union, Bellampalli—for the Workmen.

Sri K. Srinivasa Murthy and Miss G. Sudha, Advocates—for the Management.

AWARD

The Government of India by its letter No. L-21011(13)/80-D.IV(B), dated 13th March, 1981 referred a dispute between the Management of Singareni Collieries Company Limited, Bellampalli Division-II and its workmen to this Tribunal under Sections 7A and 10(1)(d) of the Industrial Disputes Act, 1947, for adjudication. The dispute referred is :

"Whether the action of the management of Divisional Superintendent, Bellampalli Division-II, Singareni Collieries Company Limited, Bellampalli (Post Office), Adilabad District in not granting the annual increments to S/Sri Matcha Narayana 2. Nathidi Kista Reddy, 3. Gundarapu Narsaiah, 4. Disetti Ramuloo, 5. Tekulu Muthyala, 6. Katta Rayamullu, 7. Dursetti Rayalingu, 8. Shankari Narsaiah, 9. Godalli Balaiah, 10. Bhadrappu Rajanarasu, 11. Letha Mondli, 12. Goli Raja Mogilli, 13. Modiveni Komaraiah and 14. L. Guruswami, Coal Cutters from 1-1-1974 to 1-1-1979 is justified ?

If not, to what relief are the concerned workmen entitled ?"

2. The Singareni Collieries Workers Union, Bellampalli has filed a claims statement on behalf of the Workmen concerned through their Chief Vice President, Sri B. Ganga Ram stating that the 14 workmen under reference were promoted as Coal Cutters with effect from 1-9-1975, that prior to that date also they were working as Coal Cutters since 1972 and from 1-1-1974 they have been continuously working as Coal Cutters in acting capacity, that if their continuous acting service as Coal Cutters is taken into account, they would be eligible to get three annual increments as on 1-1-1977

and five annual increments as on 1-1-1979 but they were given only one increment on 1-1-1977 and three increments as on 1-1-1979, that they lost two annual increments due to delay in their confirmation and their first annual increment was given on 1-1-1977 only i.e. after 16 months and if had been confirmed from 1-1-1974 they would have got three increments by that date, that in the case of Mining Staff, the Management agreed to pay increments for their continuous service as per the settlement dated 28-9-1978, that in the case of others also the acting service is counted for increments, that the Union raised this dispute but the Management postponed the issue at the time of conciliation and they later agreed to arrive at a settlement but did not settle the dispute and therefore the Union had to get this dispute referred to this Tribunal. It is prayed in the claims statement that the acting service of the claimants from 1-1-1974 should be taken into account and they should be paid five annual increments as on 1-1-1979.

3. The counter of the Management is that these claimants were appointed as Coal Fillers in 1970-71 and continued to be so till they were promoted as Coal Cutters on 1-9-1975. It is further stated that as per the prevailing custom and usage, the Coal Cutter and Coal Fillers constitute one working group, that the absences among the Coal Cutters are filled on badly basis from amongst the Coal Fillers, that on such occasions the Fillers are paid the average wages earned by all the Coal Fillers during the previous months and not the difference of rate since such average earnings are much higher than the Coal Cutters' wages. It is denied that prior to the confirmation, these claimants were working as Coal Cutters since 1972 and from 1-1-1974 continuously in acting capacity as Coal Cutters. It is stated that their services were utilised as badlies only and therefore, they did not qualify for confirmation with retrospective effect. It is also averred that the comparison with the Mining Staff is not justified as circumstances of the two cases are totally different and during conciliation also the management tried to settle the dispute by mutual discussion but the representatives of the workmen were adamant and the present demand of the workmen is unjustified and therefore, it should be rejected.

4. An additional claims statement is filed on behalf of the workmen stating that some errors occurred in writing their Sir names earlier and giving their full names. It is further stated in this additional statement that these 14 workmen have been working as Coal Cutters in acting capacity since January 1971 and therefore they were promoted as Coal Cutters with effect from 13-7-1972 and after working as permanent Coal cutters for 7 months, due to internal differences in the management they were reverted as Coal Fillers with effect from 1-2-1973 and the workers filed their applications protesting against that reversion and joining duty after protest and during 1973 the Management thus disturbed their continuous acting and later engaged them as Coal Cutters in acting capacity now and then but since 1974 they were engaged as acting Coal Cutters continuously till their second promotion with effect from 1-9-1975 and therefore the Union is justified in demanding annual increment from 1-1-1974 with retrospective effect. To this an additional counter is filed by the Management stating that the reversion was not due to any internal differences of the management but it was purely due to poor and unsatisfactory performance of the workmen during their probation period and after advising them previously to improve their work, that the acting job was not continuous but were necessitated due to sick leave and absenteeism vacancies of the regular workmen and as per the willingness of the workers and that period cannot be taken for purpose of granting increments as increments are given only on confirmation after regular appointment.

5. One V. Guruswami and Matcha Naryana, two of the claimants, are examined as W.W. 1 and W.W. 2 respectively on behalf of the workmen. The Chief Mining Engineer Sri A. Srinivasa Reddy is examined as M.W. 1 and the Personnel Manager Sri K. Kalyan Raman in Singareni Collieries Company Limited, Mandamarri Division, who was working as Personnel Officer at the relevant time at Bellampalli is examined as M.W. 2 on behalf of the Management. Exs. W1 to W4 and M1 to M10 are got marked by the parties in support of their respective stands.

6. The issue referred to this Tribunal for decision is simple. The 14 workmen concerned in this reference claim that though they were taken as Coal Fillers they came to work as Coal

Cutters from 1972 on being promoted to those posts and from 1-1-1974 they have been continuously working as Coal Cutters but the Management issued promotion orders from 1-9-1975 only and gave them the first annual increment on 1-1-1977 without taking into consideration their continuous service from 1-1-1974. They contend that if their services is counted from 1-1-1974 they would be entitled to three annual increments as on 1-1-1977 and five increments as on 1-1-79. Their demand is that their services should be counted from 1-1-1974 and they should be given the annual increments accordingly. The Management disputes this claim on the ground that from 1-9-1975 they were promoted and prior to that they might have worked intermittently as badlies in casual vacancies and such service could not be counted for increments as Coal Cutters and therefore the Management rightly gave them the first increment on 1-1-1977. Whether the above referred demand of the workmen is justified and to what relief they are entitled to is the issue for consideration.

7. Though the Management and its witnesses tried to say that the Coal Fillers and Coal Cutters from one group only and they are interchangeable and their job is to produce coal, it was elicited from M.Ws. 1 and 2 and also established from the documents that the Coal Cutter is a promotion post and the duties of Coal Fillers and Coal Cutters are quite different even if the experienced and suitable amongst Coal Fillers are taken as Coal Cutters. M.W. 1 states that the Coal Cutters attend to drilling and blasting of coal whereas the Coal Fillers merely carry the coal and fill them in tubs. M.W. 1 had to admit that the coal fillers are piece-rated and coal cutters are time rated. He admits that the coal cutters do not attend to coal filling work. Ex. M4 promotion order prescribes the duties of Coal Cutters and they include carrying of explosives, drilling of holes, carrying drilling machines from underground to surface and vice versa etc. When M.W. 1 admits in cross examination that on 11-7-1972 all these claimants were promoted as Coal Cutters and were on probation and they were so taken because they were acting as coal cutters from 1-2-1971, it is clear that the Coal Cutter is a promotion post for Coal Filler and they cannot be considered as one and the same or as interchangeable. M.W. 2 also states that by the time he joined at Bellampalli Division all these claimants were promoted as Coal Cutters. He used the term "Promoted" because it was a promotion post. Ex. M1 addressed to the temporary coal cutters mentions that if they would not improve the work they would be reverted as Coal Fillers. M.W. 2 also mentions similarly. Ex. M3 is a reversion order given to Coal Cutter. These documents would thus show that the Management was also considering the post of Coal Cutter as a promotion one and if a Coal Cutter is sent back as Coal Filler, it would be a reversion. Thus there is no force in the submission of the Management that Coal Fillers and Coal Cutters are one group and they are interchangeable and no promotion is involved if a Coal Filler is asked to work or promoted as Coal Cutter and works in that capacity continuously.

8. The Management filed three reversion orders and they are Exs. M2 and M3 issued in 1973 and Ex. M9 issued to seven of these claimants in 1976. As far as 1973 reversions are concerned the workmen, admit that and state that those reversions were made due to some internal differences in the management. But they do not admit any reversion in 1976. It is not the case of the Management in its counter that seven of these claimants were reverted in 1976 and are now working as Coal Fillers only. M.W. 1 admits that Ex. M9 reversion order was not served on the workers though it was exhibited on the notice board. The stand taken by the Management in the counter is that all the claimants including the seven covered by Ex. M9, were promoted on 1-9-1975 and since then they are working as Coal Cutters. It is nowhere indicated in the counter that after that promotion any of these claimants was reverted at any time. As M.W. 1 admits that no order of reversion was served on the workmen and as the claimants' version is that they are continuously working as Coal Cutters till now and as the stand taken by the Management also in their pleading is to the effect that all these claimants are working as Coal Cutters even now (it is no where hinted that Ex. M9 reversion was affected or that those 7 persons were again promoted on a subsequent date) and as it is not even argued before me

that any of the claimants have been reverted subsequent to that promotion admitted by the Management, I accept the claim of the workmen that they have been continuously working and there was no reversion in 1976 to any of them. I have referred to this Ex. M9 as it is got marked though no argument is advanced before me on its basis.

9. Though in the counter it is mentioned that previously these claimants were working in casual vacancies as Coal Cutters and that was for brief period and intermittently and it is only from 1-9-1975 when they were promoted as Coal Cutters they started working continuously, the admissions elicited from M.Ws. themselves would go to show that these claimants were working as Coal Cutters continuously from 1-1-1974 as claimed by them in their claim statement. In the additional claims statement it is mentioned that all these claimants were promoted as Coal Cutters with effect from 13-7-1972. (Reference of that promotion order is given in the statement). In the additional counter that promotion order is not denied though it is stated that that was only an acting job and not a continuous job and that acting was in short leave vacancies only. It is not in dispute that these claimants were reverted in 1973 as mentioned in the additional claims statement (The particulars of that reversion order also are given in this statement). The submission on behalf of the workmen is that when they were so reverted they joined as Coal Fillers under protest. Ex. W1 is one of those protest letters. This letter dated 11-2-1973 states that that workman was promoted as Coal Cutter along with others with effect from 13-7-1972 as per the order dated 11-7-1972 and since then he was working satisfactorily but he was reverted with effect from 1-2-1973 as Coal Filler as per the Order dt. 31-12-1973 and he was representing his case through proper channel and was joining as Coal Filler under protest. Ex. M2 reversion order issued to this workman and five other claimants mentions that they were temporarily promoted as Coal Cutters and put on probation and during the probation period their work was found not satisfactory inspite of warning and therefore they were being reverted back to their original job as Coal Fillers with effect from 1-2-1973. This order would thus show that the claim of this workman that they were promoted in 1972 is correct and the present version of the Management that there was no promotion but simply they were asked to work as Coal Cutters as badlies in short vacancy is incorrect. Ex. M3 reversion order also issued to another claimant on 6-3-1973 is on similar lines. Of course in Ex. M4 order dated 21-7-1975 they were all promoted with effect from 1-9-1975 but the case of the workmen is that after their reversion in 1973 for short period, disturbing their continuous acting, they were again asked to work as Coal Cutters in acting capacity now and then but however since 1974 they are engaged as Coal Cutters continuously till Ex. M4 order was formally issued. On a consideration of the relevant evidence and probabilities this version appears to be true and acceptable. Apart from the evidence of W.Ws. 1 and 2, M.W. 1 admits in cross examination that all these claimants were promoted on 11-7-1972 as Coal Cutters and were kept on probation, and he admits that because these claimants were acting as Coal Cutters from 1-2-1971 they were given that promotion as Coal Cutters in 1972 because of that experience. He admits that after their reversion after seven months period as Coal Cutters, they were again given acting postings as Coal Cutters whenever required. M.W. 2 states that by the time he joined at Bellampalli Division in July 1978 all these workmen were promoted and were working as Coal Cutters, and in cross examination he categorically states that after 1-9-1975 these workmen were not reverted though he does not know whether prior to that date also they were working as acting coal cutters. On a consideration I accept the claim of these workmen and hold that from 1-1-1974 they have been continuously working as Coal Cutters though the formal order promoting them as Coal Cutters was issued with effect from 1-9-1975 only.

10. As per the practice in this Company and also as per Ex. M10 Circular of the year 1976 and as stated by M.W. 2, the annual increment to the workers is given by first January if the service is six months or more by that date. If it is less than six months then their annual increment is given in the year next on 1st January. In this case these claimants were given their first annual increment on 1-1-1977 i.e. after 16 months, on the ground that their promotion order

was issued with effect from 1-9-1975 only and by 1-1-1976 they were not having six months service as per that order and the next date of giving annual increment was 1-1-1977 only. The contention on behalf of the workmen is that as they are in continuous service from 1-1-1974 and as they have been continued as Coal Cutters thereafter though the formal order was issued on 1-9-1975, they should get their first annual increment on 1st January, 1975 and the second annual increment from 1st January, 1976 and third one on 1-1-1977 but their first annual increment was given on 1-1-1977 and thus two annual increments due to them are denied to them unjustly and therefore they should be given increments now. (In the claims statement it is stated that they would get five annual increments 1-1-1979 but they got three annual increments only).

11. These workmen have been agitating for counting their service from 1-1-1974. After 1-9-1975 when they were asked to give an undertaking to work as Coal Cutters pursuant to that promotion order, the undertakings of the consent letters given by the workmen contain their assertion that they have been working as Coal Cutters for the last several years continuously and they are willing to perform their duties as Coal Cutters as per practice. Exs. M5 and M6 are produced as two of such consent letters given by these workmen pursuant to Ex. M4 order. These letters would show that they have been claiming that they are working continuously as Coal Cutters. Ex. W2 is the photostat copy of the minutes of discussion with the Management. Those discussions were with reference to the demand of the Workers Union regarding the demand for three annual increments to these Coal Cutters. That note is to the effect that the Management's representative informed that the matter would be referred to the higher authorities for advice and the parties would be informed of the next date of hearing. Ex. M3 is photostat copy of the minutes of discussion before the Assistant Commissioner of Labour (Central) by the Workers' representative and the Management's representative. The note is to the effect that both the parties agreed to review the case jointly in terms of para 11 of the Memorandum of Settlement dated 28-9-1978 for mutual settlement. Ex. W4 is copy of that settlement. Para 11 of the Settlement applies to Mining Staff and Coal Cutters were not included in that category in that Settlement. M.W.2 who represented the Management before the Assistant Labour Commissioner states that he was aware that that para applies to Mining Staff only but not the Coal Cutters. But yet he agreed to that note of discussion with full knowledge that para 11 would not be applicable to Coal Cutters. Of course he adds that the workers' representative also would be knowing that. But, any way there was failure report and thereafter this reference has been made to this Tribunal. Now the workmen are demanding the increment not on the basis of this Settlement Ex. W4 but on the ground that it is the duty of the management to issue the formal orders when they have been working continuously as Coal Cutters from 1-1-1974 and simply because the Management chose to issue that order with effect from 1-9-1975 their continuous service as Coal Cutters prior to that date cannot be obliterated and therefore they should be given three increments by 1-1-1977 and five increments from 1-1-1979. Some suggestions were made to W.W.1 that during 1973-74 he worked as Coal Cutter for 206 days only and during 1974-75 he worked for 200 days only (No such suggestion were made to W.W.2). With a view to show that throughout the year the claimants might not worked as Coal Cutters. The definition of continuous service in Section 25 (B) of the I.D. Act may be for purpose of Chapter V A of the Act. But the indication is that if a person works for 190 days below ground in the Mines it would qualify him as continuous service. It is not as if a person by absence of three or four days or by not being able to work as Coal Cutters for a week or so for some reason or other, would not be entitled to claim that he is in continuous service as Coal Cutter if he has been working as Coal Cutter normally and continuously. When it is found that these claimants have been continuously working as Coal Cutter from 1-1-1974 without any break, it is for the Management to issue the necessary orders to them in time when it is utilising their services in those post as Coal Cutters. By postponing the issuance of such formal order, it cannot say that the person working as Coal Cutter continuously and

whose services are ultimately regularised, would not be entitled to claim the benefits with effect from the date he started working continuously as Coal Cutter. The workers belonging to economically weaker section would not be in a position to bargain with the management and might not have obtained the regularisation order with retrospective effect from 1-1-1974. But that does not mean that when they are found to have worked continuously their just demand for annual increment cannot be acceded to. The Company itself should have accepted this demand instead of driving the workmen to approach this Tribunal for adjudication of their claim. On a consideration, I am of the view that the present demand of the workmen is just and proper and has to be allowed. In this context it has to be mentioned that as per the Management's version these 14 workmen were paid on the basis of the average earnings of the Coal Fillers during the period they were acting as Coal Cutters i.e. till 1-9-1975 and those payments would be more than what the Coal Cutter would earn as time rated worker. But the workmen deny this and states that they were not paid any extra amount. If Workmen's demand for considering them as Coal Cutters from 1-1-1974 and for giving them annual increments accordingly is to be accepted, then they cannot retain any extra amount paid to them during that period. Excess payments if any, have to be taken into consideration while giving them the necessary relief.

12. The learned counsel for the Management tried to say that the financial position of the Company is not sound and it may not be possible to undertake extra burden. The Company is not being asked to revise the scales or pay bonus or make some unexpected payment. What is being asked in this case is the due remuneration for the services rendered by the workmen and accepted by the Company as Coal Cutters. The Coal Cutters have a scale of pay and what these workmen are asking is that scale only and nothing extra. It cannot be considered as a new financial commitment. For the services obtained by the Company it has to make due payments as it pays to any other Coal Cutter. Having obtained the services of these Coal Cutters from 1-1-1974 continuously, when these workmen ask for annual increments, taking into consideration of that service and pay them the increments as the Company is paying to other Coal Cutters, this financial difficulty cannot be put forth against this just and proper claim of the working class who sweat and toil for the production and profits of the Company. In this view it is not necessary to consider whether the Company could reduce its over-head charges or top heavy salaries or other avoidable expenditure to make it more sound financially.

13. In the result, in view of the fore-going, I hold that the action of the Management of Singareni Collieries Company Limited, Bellampally Division in not granting the annual increments to these 14 workmen taking into account their continuous service from 1-1-1974 as Coal Cutter is not justified. I hold that as claimed by these workmen they are entitled to three annual increments by 1-1-1977 and five increments by 1-1-1979. The Company shall accordingly workout and pay the arrears of increments due to them, minus extra payment, if any, made to them on the basis of average wage earnings of the Coal Fillers.

Award passed accordingly.

Dictated to the stenographer, transcribed by him and corrected by me and given under my hand and the seal of this Tribunal, this the 16th day of March, 1984.

M. SRINIVASA RAO, Presiding Officer

[No. L-21011(13)/80-D, IV(B)]

S. S. MEHTA, Desk Officer

Appendix of Evidence

Witness Examined

For the Workmen:

W.W.1 V. Guruvaiyah

WW2 Macha Narayan

Witness Examined

For the Management:

M.W.1 A Srinivas Reddy

M.W.2 KS. Kalyana Ramany

Documents Marked for the Workmen :

Ex. W1 Representation dt. 11-2-73 made by V. Guruvaiyah to the Manager Somagudem No. 3 Incline, SC. Co. Ltd., regarding his reversion

Ex. W2 Photostat Copy of the Minutes of discussion held on 23-9-78 in the Dispute between the Workmen and the Management of S.C. Co. Ltd., Bellampalli Division II, regarding payment of three annual increments of 9 coal cutters of SMG 3 Incline.

Ex. 43 Photostat copy of the Minutes of discussion held on 27-10-78 at Hyderabad in the Office of the A.L.C.(C) Hyderabad in the I.D. between the workmen and the Management of S.C. Co. Ltd., Bellampalli Division-II regarding payment of three annual increments in respect of 9 coal cutters of Somagudem No. 3 Incline.

By consent

Ex. W4 Memorandum of Settlement arrived at under Section 12(3) of the I.D. Act 1947 on 28-9-78 in the dispute between the Management of S.C. Co. Ltd., and their workmen, represented by Singareni Collieries Workers' Union and Tandur Coal Mines Labour Union over a charter of demands.

Documents marked for the Management :

Ex. M1 Warning letter dt. 15-12-72 issued by the Manager, Somagudem No. 3 Incline Singareni Collieries Co. Ltd., to 7 temporary coal cutters.

Ex. M2 Reversion Order dt. 19-1-73 issued by the Manager Singareni Collieries Limited to 6 temporary Coal Cutters.

Ex. M3 Reversion Order dt. 6-3-73 issued by the Manager Somagudem No. 3 Incline Singareni Collieries Co. Ltd. to M. Komaraiah.

Ex. M4 Promotion Order No. SMG 3/15/75/1076, dt. 21-7-76 issued by the Colliery Manager, SMG. 3 Incline, BD-11 to 14 workmen.

Ex. M5 Undertaking dt. 29-7-75 given by V. Gurusvaiah to the Colliery Manager Somagudem No. 3 Incline to work as Coal Cutter.

Ex. M6 Undertaking dt. 31-7-75 given by M. Narayana to the Colliery Manager, Somagudem No. 3 Incline to work as Coal Cutters

Ex. M7 Promotion Order No. SMG. 3/15/75/1266, dt. 26-8-75 issued by the Colliery Manager, SMG 3 Incline, BD 11 to 14 workmen.

Ex. M8 Letter No. SMG, 3/15/76/154, dt. 3-2-76 addressed by SME, SMG No. 3 Incline to 7 Coal Cutters informing that their probation period extending if the work is not satisfactory.

Ex. M9 Reversion Order No. SMG 3/15/76/153, dt. 3-2-76 issued by MSE, SMG 3 Incline to 7 Coal Cutters.

Ex. M10 True Copy of the Circular dt. 6-4-76 issued by Management with regard to increments.

M. SRINIVASA RAO, Presiding Officer

New Delhi, the 16th April, 1985

S.O. 1327.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, No. 2 Bombay in the industrial dispute between the employers in relation to the management of Manganese Ore (India) Limited and their workman, which was received by the Central Government on the 3rd April, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 BOMBAY, CAMP : NAGPUR. PRESENT :

Shri M.A. Deshpande, President Officer
Reference No. CGIT-2/35 of 1983

Employers in Relation to The Management of Manganese Ore (India) Limited

AND

Their Workman

APPEARANCES :

For the Employers—Shri P. S. Nair, Advocate

For the Workman—Shri Harish Chandra Rishi, Advocate

INDUSTRY : Mines

STATE : Maharashtra

Nagpur, dated the 23rd March, 1984

AWARD

By order No. L-27012/4/82-D. III. (B) dated 8-9-1983 the following dispute has been referred for adjudication under section 10 (1) (d) of the Industrial Disputes Act, 1947:—

"Whether the action of the management of Beldongari Manganese Mines of Messrs Manganese Ore (India) Limited in dismissing Shri Sampat Bhudhoo, unskilled worker from services with effect from 17-12-1981 is justified? If not, to what relief the concerned workman is entitled?"

2. The dispute is the aftermath of the order of dismissal passed against Shri Sampat Bhudhoo, an unskilled worker from services with effect from 17-12-1981, as a result of findings noted by the Enquiry Officer against him in the enquiry holding him guilty of theft and dishonesty in relation to the property worth of Rs. 173/- belonging to the mine. During the enquiry as well as in the statement of claim the contention of workman is that he was drunk, that he did not know what was happening and in that way he is denying the responsibility of the articles. At one stage even he has gone to the extent of indicting others having planted these articles.

3. All these contentions have been denied by the management by their written statement who have supported the findings as well as the ultimate order of dismissal passed by the management.

4. I have gone through the Enquiry papers and I am satisfied fully about the cogency of evidence and the propriety of the findings arrived at. There is therefore no reason to depart from those findings

5. However, on going through the Enquiry papers, findings etc. I am convinced that the punishment awarded is too harsh, on account of the order of dismissal the workman is not only deprived of further employment but also the amount of gratuity which he normally would have received had he otherwise left the service. In my view confiscation of gratuity makes the order of dismissal really harsh. Therefore it is hereby, by consent of both parties, directed that the amount of gratuity lying to the credit of the workman shall be paid to him in addition to the amount of contribution of both the workman as well as the management towards Provident Fund which might be lying in his credit, on the alleged date 17-12-1981. From the history of the case it is not safe to pay the money in the hands of the workman. Therefore the management shall invest the money in Bank Deposit or in postal National Savings Certificate in the name of the workman and his wife jointly in the capacity as natural guardians of minor children. The disbursement of money must be made on or before 30th April, 1984 otherwise the amount shall carry interest at 12 per cent per annum from 17-12-1981.

Award accordingly.

No order as to costs.

P. A. DESHPANDE, Presiding Officer

[No. L-27012/4/82-D. III(B)]

NAND LAL, Under Secy.